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A HANDY-BOOK  
OF THE  
**Law of Copyright,**  
COMPRISING  
LITERARY, DRAMATIC AND MUSICAL  
COPYRIGHT,  
AND  
COPYRIGHT IN ENGRAVINGS, SCULPTURE AND  
WORKS OF ART:

WITH  
**An Appendix**  
CONTAINING  
THE STATUTES, CONVENTION WITH FRANCE,  
AND FORMS UNDER 25 & 26 VICT. c. 68.

BY  
F. P. CHAPPELL  
AND  
JOHN SHOARD, LL.D.



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26, GOLDEN SQUARE,  
*October, 1863.*





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## CHAPTER I.

### THE SUBJECTS OF COPYRIGHT.

THE law of copyright has undergone, at different times, various modifications, and various views have been expressed with reference to the changes which ought to be made in it for the future. We do not intend in the present publication to encumber our pages with any reference to repealed statutes, except in so far as may be necessary in order to elucidate the law as it stands at present; nor shall we discuss the alterations which have been proposed. It seems clear that, since the case of *Donaldson v. Becket*\* in the House of Lords, the property of authors in their published productions depends entirely upon statutory enactment, and that no common law privilege remains, even supposing that it ever existed.

The older acts on the subject were 8 Ann. c. 19, 41 Geo. 3, c. 107, and 54 Geo. 3, c. 156, which are only mentioned to state that they are all repealed. The principal act at present in force is 5 & 6 Vict. c. 45.

Our first subject of inquiry will be in what things copyright may exist.

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\* 2 Bro. P. C. 145; 4 Burr. 2408; *et vide* *Millar v. Taylor*, 4 Burr. 2303; *Beckford v. Hood*, 7 T. R. 620; *Jeffreys v. Boosey*, 4 H. L. 815; *Reade v. Conquest*, 30 L. J., C. P. 209.



In numerous cases unpublished manuscripts have been prevented from being printed without the consent of the author. This was done in the case of Lord Chesterfield's letters to his son. *Thompson v. Stanhope*, Ambl. 737. The receiver of letters has no property in them to enable him to publish them without the consent of the writer. The receiver has, however, such a property as will enable him to prevent a stranger from publishing the letters. *Granard v. Dunkin*, 1 Bal. & B. 207. In *Pope v. Curle*, 2 Atk. 342, the infamous Edward Curle had printed private letters from Pope, who immediately applied for an injunction. Lord Chancellor *Hardwicke*, in granting an injunction, said, "As to the objection that where a man writes a letter it is in the nature of a gift to the receiver, I am of opinion that the receiver only acquires a qualified interest in it. The paper on which it is written may belong to him, but the composition does not become vested in him as property, and he cannot publish it against the consent of the writer."

Although it has been said that there is a copyright in unpublished manuscripts,\* it seems more convenient to restrict the term copyright to the property which exists in published works, because the property in unpublished manuscripts is of a very different nature, and, in fact, depends on the universal right which a man has to the produce of his labour by what the Roman law calls accession. This is explained by Lord *Brougham* and also by Lord *St. Leonards* in their judgments in *Jeffreys v. Boosey*. The latter says,

---

\* Bythewood's "Conveyancing."

"When we are talking of the right of an author we must distinguish, as has been already very accurately done, between the mere right to his manuscript and to every copy which he may choose to make of it as his property, just like any other personal chattel, and the right to multiply copies to the exclusion of every other person. Nothing can be more distinct than these two things. The common law does give a man who has composed a work a right to that composition, just as he has a right to any other part of his personal property; but the question of the right of excluding all the world from copying, and of himself claiming the exclusive right of for ever copying his own composition after he has published it to the world, is a totally different question."

In the case of *Turner v. Robinson*, 10 Ir. Rep., Ch. 132, quoted in *Reade v. Conquest*, 30 L. J., C. P. 209, the Master of the Rolls in Ireland says, "I apprehend it is clear that by the common law copyright or protection exists in favour of the works of literature, art or science to this limited extent only, that while they remain unpublished no person can pirate them, but that after publication they are by the common law unprotected."

In numerous cases the right of the author of any manuscript to prevent its publication has been laid down and enforced. The question has generally arisen in the case of letters, and it is settled that the right to the paper on which the letter is written is in the receiver, but the right to the composition and the right of publication are in the writer.

The case of *Prince Albert v. Strange*, 1 Hall & Twells, 11; Mac. & Gor. 25, was a case in which the

late Prince Consort obtained an injunction to restrain the publication of copies of drawings made by himself and the Queen. The Lord Chancellor *Cottenham* said, in giving judgment, "The property of an author or composer of any work, whether of literature, art or science, such work being unpublished and kept for his private use or pleasure, cannot be disputed after the many decisions in which that property has been affirmed or assumed."

In *Abernethy v. Hutchinson*, 1 Hall & Twells, 28, the distinguished surgeon obtained an injunction to prevent the publication of lectures which he had delivered to pupils for certain fees. This was done upon the ground of an implied understanding that the pupils were not to publish the lectures, and Lord *Eldon* said, "I have not the slightest difficulty in my own mind that a lecturer may say to those who hear him, 'You are entitled to take notes for your own use, and to use them perhaps in every way except for the purpose of printing them for profit. You are not to buy my lectures to sell again; you come here to hear them for your own use, and for your own use you may take notes.'"

If a letter by any means gets back into the hands of the sender, the receiver is entitled to recover it from him by action. This was decided in *Oliver v. Oliver*, 11 C. B., N. S. 139. In that case one brother, whom we may call A., had written to his brother B. several letters relating to family affairs. B. gave the letters to A., the writer, as a custodian, and to be redelivered on request. A. afterwards refused to give them up when required. B. accordingly brought an action against A. and it was held that he was entitled

to recover them. *Erle*, C. J., in giving judgment said : "In the case of letters, the paper at least becomes the property of the person receiving them. Of course it is necessary to distinguish between the property in the paper and the copyright. The former is in the receiver, the latter is in the writer."\*

Upon a principle similar to that of *Prince Albert v. Strange*, it was held in *Mayall v. Highbey*, 1 H. & C. 148, that a person who lends photographs to another for a particular purpose, may prevent him from taking and selling copies except in pursuance of the purpose for which they were lent, and this although the photographs have been published and irrespective of the question of copyright. This was a case in which the plaintiff had lent photographs of eminent persons to Tallis, the proprietor of the "Illustrated News of the World," for the purpose of engraving them for that newspaper. Tallis became bankrupt and his assignees sold the photographs to the defendant, who made copies of them and sold some of the copies. It was held that the plaintiff was not only entitled to the photographs, but to the unsold copies, and to an injunction to restrain the sale. The court said that there was no question of copyright, and compared it to the case of a valuable statue which a friend to whom I lend it has no right to get copied.

So in *Macklin v. Richardson*, Amb. 694, the plaintiff had composed a farce of "Love à la Mode," which he did not publish, but he kept it in manuscript and

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\* See a recent case of *Howard v. Gunn*, 2 N. R. 256, in which the Master of the Rolls refused an injunction to restrain the publication of a letter at the instance of the writer under peculiar circumstances.

allowed the actors, when the farce was performed, to use the manuscript. The defendant took the farce down in shorthand from the words of the actors and published it, for which he was held liable to an action.

By the act 5 & 6 Vict. c. 45, the word copyright is to be construed in that act as "the sole and exclusive liberty of printing or otherwise multiplying copies of any subject to which the word is applied." The word is applied and the act applies to books, which include "every volume, part or division of a volume, pamphlet, sheet of letter-press, sheet of music, map, chart or plan separately published."

Copyright cannot exist in a pirated work, or in one which is seditious, immoral, blasphemous or libellous, or printed under a false name. The cases on this point are sufficiently numerous.

Lord Eldon refused to protect from piracy Lord Byron's *Cain* and *Don Juan*, and Southey's *Wat Tyler*. In *Lawrence v. Smith*, Jac. 471, the plaintiff had published a work under the title of "Lectures on Physiology, Zoology and the Natural History of Man." The lectures had been delivered by him at the College of Surgeons. The defendant pirated the book and Lord Eldon refused any relief to the plaintiff, on the ground that parts of his work tended to impugn the immortality of the soul and to favour materialism. He said "The law does not give protection to those who contradict the Scriptures."

Instead of going more fully into the decisions of Lord Eldon on this subject, we may be allowed to make a somewhat lengthy extract from Lord Campbell's "Lives of the Chancellors" in reference to Lord Eldon's views on this point. Lord Campbell

states, with greater precision and clearness than we can hope to do, the effect of his decisions ; and he also presents his own reasons for differing from him and for hoping that they would not be upheld :—

“ But the decisions of Lord Eldon which I most object to are those by which he erected himself into a Censor of the Press, and gave himself the power to protect or to extinguish all literary property at his pleasure. From the time when copyright was vested in authors by the statute of Queen Anne,\* till Lord Eldon received the Great Seal, equity judges had guarded it from piracy by injunction; and without this remedy the right would be a mockery, as actions at law to recover damages from hawkers and pedlars, who may sell pirated editions of any work, in city or country, would only add to the author's loss. The authorship and the piracy being established, the injunction had always gone as a matter of course, without any question being made respecting the nature of the publication ; for under Lord Cowper, Lord Macclesfield, Lord King, Lord Hardwicke, Lord Camden, Lord Thurlow and Lord Loughborough, it never had been imagined that the defendant could be permitted to allege, as a justification of his piracy, that he had been committing a crime by publishing something for which he was liable to be punished, as injurious to private character, or dangerous to religion, morality or the good government of the state. Accordingly injunctions had been granted against the piracy of the ‘Dunciad,’ of ‘Swift's Miscellanies,’ of the ‘Beggars Opera,’ of the ‘Life of George Anne Bellamy,’ and of other works containing passages which if strictly examined might be considered very censurable—no one suggesting that these should be culled as a repast for the Lord Chancellor, or that he should be required to waste his valuable time in trying to find them out,—

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\* 8 Anne, c. 19.

and all who thought upon the subject being convinced, that if the work pirated were in any degree exceptionable, a benefit was conferred upon the community by restraining the circulation of it, instead of proclaiming to all the world that it might be published with impunity, in any form, and at any price.

“But within a year after Lord Eldon’s appointment as Chancellor, Dr. Wolcott, better known as Peter Pindar, having a dispute with his booksellers respecting the construction of an agreement for publishing two editions of his works, and these editions being published,—as he contended, contrary to the agreement,—filed a bill, and prayed an injunction—which was granted in the first instance, till answer. The defendants by their answer admitted that they had published in one of these editions some of the plaintiff’s works *contrary to the agreement*, and as to that edition therefore *they submitted*. With respect to the other edition they insisted that they were justified by the agreement.—The pleading at the bar being finished, the conduct of the Lord Chancellor appears to me, I confess, to be most extraordinary and unaccountable. No charge is made by answer or affidavit, or *viva voce* statement, that the work in question contained any thing exceptionable, and the judge had no judicial knowledge of its contents, nor was he (as far as I can discover) judicially called upon to form any opinion upon its merits, for it was at any rate to be presumed to be innocent. But he, privately knowing that Timothy Wolcott was Peter Pindar, and that Peter Pindar had written some ribald verses respecting his ‘royal master,’—upon the authority of a *nisi prius dictum* of Lord Chief Justice Eyre at the trial of Dr. Priestley against the Hundred for the value of his furniture and books burnt in the Birmingham riots,—‘that if any of the books were seditious, the plaintiff was not entitled to recover for them,’—of his own mere motion refused to decree an injunction or an account of profits, even with respect to that edition as to which there was a submission in the answer, saying,—‘It is

the duty of the court to know whether an action at law would lie; for if not, the court ought not to give an account of unhallowed profits of libellous publications. At present, I am in total ignorance of the nature of this work, and whether the plaintiff can have a property in it or not.' After showing how with respect to the disputed edition there must be an action, he continued:—'But even as to the other edition, before I uphold any injunction, I will see these publications and determine upon the nature of them; whether there is question enough to send to law as to the property in those copies; for, if not, I will not act upon the submission in the answer. If upon inspection the work appears innocent, I will act upon that submission; if criminal, I will not act at all; and if doubtful, I will send that question to law.' As to the disputed edition, the injunction was very properly dissolved,—but as to the other edition, contrary in my opinion to all propriety, an order was made to dissolve the injunction, unless in a week the books should be brought into court for the perusal of the Lord Chancellor.\*

"Such is the foundation of the Eldonian doctrine, that the judge before granting an injunction against literary piracy is himself *ex mero motu* to read through the whole of the work, that he may see whether it contains anything which in his opinion may possibly be construed into a libel—a doctrine which must apply equally to an Encyclopædia of fifty folios as to a collection of fugitive poems in one duodecimo. I know not whether there may be a reference to the Master to report on the character of the work, but one Master may be wholly insufficient for the undertaking; and at any rate in analogy to the proceeding upon a question of title he must be allowed to avail himself of the opinions of divines, philosophers and politicians, and exceptions may be taken to his report to be argued before the court. More astounding it is that in this

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\* *Wolcott v. Walker*, 7 Vesey, 1.



case the Lord Chancellor, professing 'total ignorance of the nature of the work, should, without any impeachment of it, have imposed upon himself the necessity of reading the whole of it before granting the injunction. The bill and answer showed it to have been printed and published at least six years—during the greater part of which he had himself filled the office of Attorney-General, so that if it was libellous it would have been his duty to prosecute it. For my own part I cannot help suspecting that he was well acquainted with its contents,—that, notwithstanding his propensity to prosecute libels, he had been afraid to bring the author before a jury, and that he now thought it a more convenient course to unite in his own person the functions of prosecutor and of judge.

"In the next case which occurred the Lord Chancellor was relieved from the awkward necessity of volunteering to read the work. Southey, the poet, in early youth, had written a dramatic poem, entitled 'Wat Tyler,' which he had placed in the hands of Ridgway, a bookseller, with the view of publishing it, but it had not been published, and the MS. remained many years in Ridgway's hands. By some means not explained, Sherwood, another bookseller, having got possession of it, printed it, and advertised it for sale. The illustrious author thereupon filed a bill, and moved for an injunction—on the acknowledged principle that, 'independent of the statute, an author has a property in an unpublished work, which is to be protected by injunction.\*' The defendant's counsel, not denying the authorship or the piracy, resisted the application on the *libellous tendency* of the work, and referred to *Wolcott v. Walker*, as an authority in his favour. The Lord Chancellor, after saying that he had read the affidavits and the book entitled 'Wat Tyler,' and that he remained of the same opinion respecting the law as when he decided the case referred to, thus

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\* *Macklin v. Richardson*, Amb. 694.

proceeded :—‘It is very true that in some cases it may operate so as to multiply copies of mischievous publications by the refusal of the court to interfere ; but to this my answer is, that, sitting here as a judge upon a mere question of property, I have nothing to do with the nature of the property or with the conduct of the parties except as it relates to their civil interests ; and if the publication be mischievous, it is not my business to protect it either for the sake of the author or the bookseller.’ So the injunction was refused, and hundreds of thousands of copies of *Wat Tyler*, at the price of one penny, were circulated over the kingdom.\*

“Of the next case, which ought to have been very interesting, we have only the following meagre note :—‘In *Murray v. Benbow*, Mr. Shadwell, on the part of the plaintiff, moved for an injunction to restrain the defendant from publishing a pirated edition of Lord Byron’s poem of “*Cain*.” The Lord Chancellor, after reading the work, refused the motion.’† In this ‘*Mystery*,’ which, Lord Jeffery says, ‘abounds in beautiful passages, and shows more *power* than any of the author’s dramatic compositions,’ there are sentiments very much to be condemned ; but so there are in the speeches of ‘*Paradise Lost*,’ and it must have been a strange occupation for a judge who for many years had meddled with nothing more imaginative than an act of parliament, to determine in what sense the speculations of Adam, Eve, Cain and Lucifer are to be understood, and whether the tendency of the whole poem be favourable or injurious to religion.‡

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\* *Southey v. Sherwood*, 2 Merivale, 435.

† Jacob’s Reports, p. 274, n.

‡ The poem was dedicated to Sir Walter Scott, who, ever an observer of decency, and a friend of religion and morality, thus acknowledged the compliment in a letter to Mr. Murray, the bookseller :—“I accept, with feelings of great obligation, the flattering proposal of Lord Byron to prefix my name to the very grand and tremendous drama of *Cain*. I may be partial to it, and you will allow I have cause ; but I do not know that his

"Soon after came a case which showed in a still more striking point of view the alarming nature of the new censorship which the Chancellor had conferred upon himself. Mr. Lawrence, a most eminent surgeon, although (he will allow me to say) not a profound metaphysician, had delivered at the College of Surgeons 'Lectures on Physiology, Zoology, and the Natural History of Man,' in which he had powerfully combated the theory of one species of animals progressing into another, and proved that the different races of man, instead of being monkeys, were varieties of the same species, all derived from the same stock; but in his speculations on mind he had fallen into some mistakes which may be easily refuted. Having finished his course of lectures without censure, he published them, and a bookseller printing a pirated edition, he filed a bill and obtained an injunction *ex parte*. The defendant moved to dissolve the injunction, and his counsel relied entirely on certain passages in the work, which they said impugned the doctrine of the immateriality of the soul. The plaintiff's counsel, on the other hand, denied that the tendency of the work was such as had been represented, endeavouring to explain the passages objected to, and to show that they did not bear the interpretation imputed to them. The Lord Chancellor, after truly observing that he had nothing to do with those lectures being delivered at the College of Surgeons, that his jurisdiction was founded upon the consideration that an action at law is no adequate remedy for an invasion of literary property, and that he could only give relief where the law would give damages, thus continued: 'I take it for granted that when the motion for the injunction

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muse has ever taken so lofty a flight amid her former soarings. He has certainly matched Milton on his own ground. The fiend-like reasoning and bold blasphemy of the fiend and of his pupil lead exactly to the point which was to be expected,—the commission of the first murder, and the ruin and despair of the perpetrator."

was made, it was opened as quite of course; nothing probably was said as to the general nature of the work or of any part of it, for we must look not only at the general tenor, but at the different parts; and the question is to be decided not only by seeing what is said of *materialism*, of the *immortality of the soul*, and of the *Scriptures*, but by looking at the different parts, and inquiring whether there be any which deny OR WHICH APPEAR TO DENY the truth of Scripture, or *which raise a fair question for a court of law to determine whether they do or do not deny it*. . . . The question is, whether it is so clear that the plaintiff has this civil right, that on that ground he is to have relief? If, on reading the plaintiff's work, I thought it clear that he had that right, I should feel it necessary to state the grounds of my opinion, for after the argument at the bar I should be unwilling to part with the subject without telling you the view I take of it. But *if I feel a RATIONAL DOUBT whether an action would lie*, it will not be necessary to go into the grounds of that doubt; it might perhaps prejudice the trial if I did. Looking at the general tenor of the work and at many particular parts of it,—recollecting that the immortality of the soul is one of the doctrines of the Scriptures,—considering that the law does not give protection to those who contradict the Scriptures, and *entertaining a doubt, I think a rational doubt, whether this book does not violate that law*, I cannot continue the injunction.\* • Injunction dissolved.

"This was the last case of the sort which occurred

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\* Jacob's Rep. 471. The Lord Chancellor's reasoning is a fine example of the *Sorites*,—the first proposition, from which all the others follow, being—"I have a rational doubt whether some parts of Mr. Lawrence's book do not tend to materialism,—*ergo*, I have a rational doubt whether they are not inconsistent with the immortality of the soul,—*ergo*, I have a rational doubt whether they are not contrary to the Scriptures,—*ergo*, I have a rational doubt whether the author could maintain an action for the piracy,—*ergo*, the injunction must be dissolved."

before Lord Eldon, and so he left the doctrine which he had originated to be corrected by his successors, or by the House of Lords, or by act of parliament. As at present advised, I must be allowed most respectfully, but most strenuously, to protest against it.

“A decision of Lord Macclesfield, which has recently been discovered in the registrar’s book, is quite on the other side, but I do not rely upon it as an authority, for the *ratio decidendi* cannot be supported. An English translation having been published of Burnett’s “*Archæologia Sacra*,” his executor applied for an injunction, and the question was debated whether a translation is a piracy within the meaning of 8 Anne, c. 19? *Lord Macclesfield*: ‘Though a translation may not be the same with re-printing the original, as the translator has bestowed his care and pains upon it, and so it may not be within the prohibition of the act, yet this being a book which to my knowledge (having read it in my study) contains strange notions intended by the author to be concealed from the vulgar in the Latin language—in which it could not do much hurt—the learned being better able to judge of it, I think proper to grant an injunction against printing and publishing it in English. I look upon it that *this court has a superintendency over all books, and may in a summary way restrain the printing or publishing any that contain reflections on religion or morality.*’ *Injunction granted.*\*—This reasoning has no countenance, except from the dictum of Lord Ellenborough, which caused much merriment in Westminster Hall, that ‘the Chancellor would, on the application of the libellee, grant an injunction against the public exhibition of a libellous picture,’—and it is certainly erroneous, for the Court of Chancery has no jurisdiction on the subject, except for the protection of property. But Lord Eldon’s doctrine, although it may not be opposed by any well-considered prior decision, is undoubtedly

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\* Registrar’s Book, 1720, A, fo. 350 b. Jac. Rep. 441—42.

at variance with the practice of the Court of Chancery for above a century,\* and I think is contrary to the established principles of equity. Besides the objection of allowing a man to say that he has violated the law, and to allege his own turpitude, Lord Eldon seems to me to have forgotten that the author is actually in possession, and that the pirate is a stranger, and a wrong-doer. Under such circumstances, even a doubtful title has a right to protection by injunction, and is constantly so protected.

"Let us always recollect, that if the injunction is refused, a meritorious writer may be ruined by the 'doubt' of a Lord Chancellor; and that if the injunction is granted, no injury can possibly be done to the defendant or to the public. The consideration, that by permitting the piracy of a work which is really improper it is rendered much more mischievous to society, ought not in strictness to weigh with equity judges; but on other occasions they are wonderfully astute and ingenious in accommodating their jurisdiction to their own notions of the public good. In how many other instances do they say, 'You cannot set up this defence, whether true or false, at a moment when the truth of it cannot be ascertained;' 'there is a personal exception to your setting up that plea.'—'You are estopped by your own conduct from making such an allegation.'—There can be no practical danger of the author of any grossly immoral or seditious work applying for an injunction, for,—on his own affidavit, he might immediately be prosecuted and sentenced to

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\* Although Lord Eldon has no countenance from any English Judge, the Scotch Judges seem, at one time, to have inclined to his way of thinking. "When Dr. Johnson and I were left by ourselves," says Boswell, "I read to him my notes of the opinions of our Judges upon the questions of Literary Property. He did not like them; and said, 'They make me think of your Judges not with that respect which I should wish to do.' To the argument of one of them, that there can be no property in blasphemy or nonsense, he answered, 'Then your rotten sheep are mine! By that rule, when a man's house falls into decay, he must lose it.'"—*Tour to the Hebrides*, 39.

an infamous punishment,—while the permission to object to the character of the pirated work not only renders all literary property insecure, but holds out the strongest temptation to spoliation and fraud. If Lord Eldon's authority is so high, that even upon such a subject it cannot be judicially overturned, the legislature must interfere and rescue literature from a bondage which is light or heavy, according to the fantasy of the Chancellor for the time being, and which might become wholly insupportable."

Lord Campbell's views would undoubtedly be considered with attention by the legislature in case any amendment in the law were proposed,—and it is possible that the House of Lords might overrule Lord Eldon's decisions,—but until they are overruled by the authority of Parliament, or by the Supreme Court of Appeal, they must continue to be law. It appears that Lord Campbell objects to the character even of a grossly immoral work being inquired into, should the author venture to complain of its being pirated, but this can hardly be supported. If this were law, the authors of the obscene publications against which one Lord Campbell's own measures was directed might obtain protection from the Court of Chancery against piracy. To such a case another of Lord Campbell's arguments would apply, that if the work pirated is in any degree exceptionable, a benefit is conferred upon the community by restraining the circulation of it instead of proclaiming to all the world that it may be published with impunity in any form and at any price. The answer to this argument is to be found in the fact that the whole jurisdiction of the court depends upon property, and property there is not in a blasphemous, libellous, seditious or criminal work,

Indeed, Lord Campbell afterwards admits that the argument ought not to weigh with an equity judge. The whole force of Lord Campbell's objections, as far as they ought to prevail, is against the refusal to interfere in doubtful cases, and of course there is a difficulty in drawing the line.

It must be remembered, too, that Lord Eldon is not the only judge who has refused protection to objectionable works. *Eyre, C. J.*, in *Stockdale v. Onwhyn*, 5 B. & C. 173, said that it would be a disgrace to the common law if a judge could for a moment entertain a doubt about it. This was a case of the memoirs of Harriette Wilson, a courtesan. So in *Dr. Priestley's* case, referred to in *Southey v. Sherwood*, 2 Mer. 437. Dr. Priestley brought an action for damages occasioned by a riot, and alleged, as one ground for compensation, the loss of valuable manuscripts. It was stated that Dr. Priestley was in the habit of publishing works injurious to the government; and *Eyre, C. J.*, held, that evidence of this might be given against Dr. Priestley. So in *Fores v. Johnes*, 4 Esp. 97, it was held, that the plaintiff could not recover for the price of obscene or libellous prints, and see *Du Bost v. Beresford*, 2 Cowp. 511; *Poplett v. Onwhyn*, R. & M. 337; *Gale v. Leckie*, 2 Stark. N. P. C. 107. *Holroyd, J.*, in *Stockdale v. Onwhyn*, puts the refusal to protect infamous publications upon its proper footing. He says, "The ground of action upon which the plaintiff proceeds is an alleged injury to his supposed right of publication. But I am at a loss to know how such an injury can be sustained, if the work be such that he has no right to publish it." And *Tindal, C. J.*, at the close of his judgment in the case of *Wright v.*



*Tallis*, which we are about to quote for another purpose, relies on the cases already decided as to immoral publications, and points out the policy of the law with regard to them. The object of the law is the protection of the public, and the public is protected by rendering the production of such works unprofitable to the authors and publishers.

The leading case in reference to a work which is published fraudulently, under the name of a person who is not the real writer, is the case of *Wright v. Tallis*, 1 C. B. 893. This was a case in which the plaintiff published a work called "Evening Devotions, from the German of C. C. Sturm." The defendants infringed his copyright. The plaintiff brought an action, and the defendants pleaded that the work was falsely and fraudulently represented to be translated from Sturm, in order to deceive the public and increase the sale of the work. Sturm was at that time dead. The following is an extract from the judgment of *Tindal*, C. J.: "The first observation that arises is, that the present case is perfectly distinguishable from those which have been referred to at the bar, of books of amusement or instruction having been published as translations, whilst they have been in fact original works, or having been published under an assumed instead of a true name. Such was the instance given of the 'Castle of Otranto,' professing to be translated from the Italian, and such was the case of innumerable works published under assumed names—voyages, travels, biography, works of fiction or romance, and even works of science and instruction, for in all these instances the misrepresentation is innocent and harmless. There is not found in any one of these

cases any serious design on the part of the author to deceive the purchaser, or to make gain and profit from him by the false representation. The purchaser, for anything that appears to the contrary, would have purchased at the same price if he had known that the name of the author was an assumed and not a genuine name, or had known that the work was original and not translated; and indeed in most of the cases that can be put the statement is not calculated in its nature to deceive any one, but is seen upon the very first glance to be plainly and manifestly fictitious. In these cases, therefore, it was perfectly indifferent to the public whether the representation was true or not, and in all probability the book would have obtained an equal sale whether it was a translation or original; whether the name of the author was assumed or genuine. But in the case before us, no one of these observations will apply. The facts stated in the plea import a serious design on the part of the plaintiff to impose on the credulity of each purchaser, by fixing upon the name of an author who (once) had a real existence and who possessed a large share of weight and estimation in the opinion of the public. The object of the plaintiff is not merely to conceal the name of the genuine author and to publish opinions to the world under an innocent disguise, but to deceive the public by inducing them to believe that the work is the original work of the author whom he names, when he himself knows it not to be so, to obtain from the purchaser a greater price than he would otherwise obtain. The transaction, therefore, ranges itself under the head of *crimen falsi*. The publisher seeks to obtain money under false pretences; and as not only the

original act of publishing the work, but the sale of the copies to each individual purchaser, falls within the reach of the same objection, we think the plaintiff cannot be considered as having a valid and subsisting copyright in a work, the sale of which produces such consequences, or that he is capable of maintaining an action in respect of its infringement. The cases in which a copyright has been held not to subsist, where the work is subversive of good order, morality or religion, do not indeed bear directly on the case before us, but they have this analogy with the present inquiry—that they prove that the rule which denies the existence of copyright in those cases is a rule established for the benefit and protection of the public; and we think the best protection that the law can afford to the public against such a fraud as that laid open by this plea is to make the practice of it unprofitable to its author.”

If a man copies what is public property, of course he has no property in the copy. See *Barfield v. Nicholson*, 1 Sim. & St. 1. But this seems to have been carried too far in *Wyatt v. Barnard*, 3 Ves. & B. 77, where the plaintiff obtained copies of the specifications of patents by paying for them at the office, and published them in a periodical work. The defendant copied them from the plaintiff's journal and published them in another periodical work. Lord Eldon refused to grant an injunction against him, on the ground that the plaintiff could not acquire a copyright in the specifications by obtaining copies at the office; but it is clear that the defendant had no right to save his money and trouble at the plaintiff's expense.

Accordingly, in *Newton v. Cowie*, 12 J. B. Moore, 457, it was held that an engraving on a reduced scale of a drawing annexed to a specification was the subject of copyright, and that the defendant had no right to copy the plaintiff's copy without going to the original.

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## CHAPTER II.

### PERSONS ENTITLED TO COPYRIGHT.

WE come now to consider what persons are entitled to the enjoyment of copyright.

As a general proposition, the author is the person so entitled ; but it is obvious that questions may arise, as in fact questions have arisen, as to who is to be considered the author of a work in particular cases.

In *Shepherd v. Conquest*, 17 C. B. 427, the plaintiffs being the proprietors of the Surrey Theatre, employed a writer to go to Paris and adapt a French dramatic piece for representation in England. It was arranged that they should pay all his expenses, and have the exclusive right of representing the piece in London, and that he should have the exclusive right of representing the piece in the provinces.

There was no writing between the parties.

The plaintiffs brought an action for penalties against the defendant, the proprietor of the Grecian Saloon, for unauthorized representations of the piece. It was decided that the plaintiffs were not the proprietors of the copyright, and could not maintain the action.

The plaintiffs did not acquire the copyright by suggesting the idea to the adapter and by paying the expenses, and the adapter was the owner of the copyright, and had not transferred it by writing as required by law. *Jervis*, C. J., in giving judgment, said, "We do not think it necessary in the present case to express an opinion whether, under any circumstances, the copyright in a library work, or the right of representation in a dramatic one, can become vested *ab initio* in an employer, other than the person who has actually composed or adapted the work.

"It is enough to say in the present case no such effect can be produced where the employers merely suggest the subject, and have no share in the design or execution of the work, the whole of which, as far as any character of originality belongs to it, flows from the mind of the person employed.

"It appears to us an abuse of terms to say that in such a case the employers are the authors of a work to which their minds have not contributed an idea, and it is upon the author in the first instance that the right is conferred by the statute which creates it."

The case of *Hatton v. Kean*, 4 C. B., N. S. 268, was decided expressly as one of the cases with reference to which the court, in *Shepherd v. Conquest*, declined to state their opinion. Mr. Charles Kean, the defendant, adapted several of Shakespere's plays, and employed the plaintiff to compose a musical composition which, as *Erle*, C. J., said in his judgment, was a small part of the whole. It was held that Mr. Kean acquired the sole right of representing the whole piece including the music, and that the plaintiff had no copyright in the musical composition. The case was

decided on the ground that Kean was the author and designer of an entire dramatic composition, and with respect to a part, an accessory of that whole—the whole consisting of something produced by the skill of the defendant in its entirety—for a small part he employed the plaintiff. It appeared that other musical compositions formed part of the defendant's plan, and of the piece represented by him.

The case is not at variance with any other. *Sweet v. Benning* was the case of a periodical, and in *Shepherd v. Conquest* there was no exercise of skill on the part of the plaintiff, nor did he produce a whole to which the defendant's labour contributed only a small part.

The case of *Sweet v. Benning*, 16 C. B. 459, was a case of law reports.

The plaintiffs were the proprietors of the "Jurist," a periodical publication, in which appeared reports of cases decided in the courts of law, and they employed barristers by a verbal arrangement to furnish these reports.

It is usual in reports to furnish a marginal note of each case, stating shortly the point decided. The defendant published a monthly digest of cases decided in the courts, to the number of 300 to 400 monthly, and took in an average fifteen each month verbatim from the marginal notes in the "Jurist."

It did not appear that there was any original matter by way of comment in the defendant's publication, but in some cases original notes were taken in court. It was held that the plaintiff, by employing the reporters, obtained the copyright in their reports. This was decided on the 18th section of 5 & 6 Vict. c. 45, with

reference to periodical publications. But the words of *Maule, J.*, appear opposed to the case of *Shepherd v. Conquest*, "But I think that where one employs another to write, if there be nothing to show the contrary in the surrounding circumstances of the case, it is to be understood that such a writing is produced on the terms that it is to belong to the employer."

As to the persons entitled to copyright, it was decided, in the case of *Jeffreys v. Boosey*, 4 H. L. 815, that a foreigner who publishes a work here while not resident in England, is not protected by the English law, nor is the English assignee of a foreign author resident abroad. It will consequently follow that a foreign author who publishes a work while resident at Calais is not protected, whereas if he came to Dover and published his work while resident there, he would have the benefit of the copyright. The case had reference to Bellini's opera of "La Somnambula."

Where a work is first published abroad, the result of the cases seems to be that the author or his assignee must publish the work promptly in England, in order to obtain any protection, and the sending of copies printed abroad to England for sale will not be sufficient. Six years has been decided to be too long a time. It appears also that if before the plaintiff has acquired a legal title to the copyright, he permits copies to be imported and sold without interference, the court will not afterwards interfere to protect him.\*

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\* *Guichard v. Mori*, 9 L. J., Ch. 227; *Page v. Townsend*, 5 Sim. 305; *Clementi v. Walker*, 2 B. & C. 861; *Chappell v. Purday*, 4 Y. & C. 485.

Copyright may be assigned by a simple receipt for the purchase-money. *Kyle v. Jeffreys*, 3 Macqueen, 611.

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### CHAPTER III.

#### DURATION OF COPYRIGHT.

As to all books published since 5 & 6 Vict. c. 45, by private persons, copyright extends till forty-two years after publication, or seven years after the author's death, whichever last expires. The copyright in a book published after the author's death belongs to the proprietor of the manuscript, and continues for forty-two years. As to works published before 1st July, 1842, the rule is the same in the cases mentioned in sect. 4 of the act. In all other cases the copyright remains as before the act, namely, for twenty-eight years, and if the author survive that period, then for his life.

Where the Crown has the copyright it is perpetual, and so also where the copyright belongs to the Universities of Cambridge and Oxford, and the Colleges of these Universities, the four Scotch Universities, Trinity College, Dublin, Eton, Westminster, and Winchester, unless otherwise expressed in the bequest or grant, 15 Geo. 3, c. 53. The Crown has the exclusive right of printing acts of parliament, proclamations, and orders in council, the liturgy, books of divine service, and the authorized translation of the Bible, and also, it is said, law books, grammars, and



other compositions compiled or translated at the expense of the Crown, 15 Geo. 3, c. 53.

Under sect. 5 of 5 & 6 Vict. c. 45, there may be a licence granted by the privy council to reprint a book where the representative of an author declines to do so after his death.

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## CHAPTER IV.

### REGISTRATION OF COPYRIGHT.

THE provisions as to registration of literary copyright are contained in sections 11, 12, 13, 14, 19, 22 and 24 of the act 5 & 6 Vict. c. 45.

The registry is kept at Stationers' Hall. No action, suit or other proceeding can be commenced until the registry of copyright is made, but the copyright is not affected in other respects by the omission. The book of entries is open for inspection on payment of the fee of one shilling, and a certified copy of any entry may be obtained on payment of the fee of five shillings. Such a certified copy is *primâ facie* proof of what is entered in the registry, but may be rebutted by other evidence.

Entries may be made of assignments of copyright and of licences affecting the copyright, as well as of the original proprietorship.

The fee on making an entry is five shillings. When any book is first published, an entry must be made in the form given in the schedule to the act, No. 2, at Stationers' Hall, containing the title of the book, the

time of the first publication, the name and place of abode of the publisher, and the name and place of abode of the author or other proprietor of the copyright. This paper must be signed by the proprietor of the copyright. To register an assignment of copyright, the form No. 4 in the schedule to the act must be filled up and signed by the person who assigns.

It is an indictable misdemeanor to wilfully make a false entry in the registry book, or to tender in evidence a paper falsely purporting to be a copy of an entry. Any person may apply to have an entry expunged or varied if he consider that his rights are affected by it, but this is confined, according to an observation in *Chappell v. Purday*, 12 M. & W. 303, to persons whose title is affected.

The application is to be made to one of the superior courts of common law in term time, and to one of the judges of these courts in vacation.

In *Chappell v. Davidson*, 2 K. & J. 123, *Wood*, V. C., said: "There are no means, when a song is entered at Stationers' Hall, of disclaiming any part; it must be entered as a whole."

The public cannot be prejudiced by any neglect or omission of the officials at Stationers' Hall (*Cassell v. Stiff*, 2 K. & J. 279), and consequently if an author registers a copyright, it is necessary for him to see that the entry made at Stationers' Hall as well as the paper which he leaves is complete and correct, otherwise he will not be able to maintain an action for infringement. His only remedy in that case would be by action against the officials at Stationers' Hall for a negligent entry. According to *Parke*, B., in *Chappell v. Purday*, 12 M. & W. 303, the court has

no power to notice an entry after it has once been expunged.

In *Leader and Cock v. Purday*, 7 C. B. 4, quoted for another purpose at page 46, new words had been written to an old air called "Pestal," and an accompaniment composed for the words. The claim was for copyright in the musical composition called "Pestal," and the objection was taken that this description claimed too much, as including the old air, in which there could be no copyright, but the objection was overruled. *Coltman, J.*, compared it to the case of a patent where improvements are claimed, but in the case of a patent, as stated by the reporter, the specification carefully distinguishes the new matter from the old. However the same point was decided in *Lover v. Davidson*, 1 C. B., N. S. 182.

If there is a mistake in the entry, as to residence for example, the court may amend it on an application to expunge the entry.

This was said by *Jervis, C. J.*, in *Ex parte Davidson*, 18 C. B. 297, which was a case relating to Samuel Lover's song of the "Low-backed Car." The court in that case refused to expunge the entry, as it was not clearly shown that it was a false entry.

The court also said they did not think an issue could be directed to try the truth of the entry without the consent of the parties, but such an issue was directed by the Court of Queen's Bench in *Ex parte Davidson*, 2 E. & B. 577. The case of the applicant in *Ex parte Davidson* was, that the airs in which a copyright was claimed by the entry were old airs, in which there could be no copyright.

The court said that the legislature did not intend the question of property to be decided upon affidavits.

The advantage of directing an issue is that the entry in that case is not allowed to be *primâ facie* evidence on behalf of the person who has made the entry.

It is obvious that where the correctness of the entry is the point in dispute, it is unjust that the entry which is impugned should be *primâ facie* evidence of its own correctness. Lord Abinger said that there was power to direct an issue in *Chappell v. Purday*, 12 M. & W. 303. In that case the plaintiff was put under the terms of undertaking not to avail herself of the entry on the trial. Litigation had commenced before the passing of 5 & 6 Vict. c. 45, and the court were unwilling to give an *ex post facto* operation to the act.

No person has a right to make an entry at Stationers' Hall except the author, unless he has an absolute assignment of the copyright. In *Ex parte Bastow*, 14 C. B. 631, the Rev. Mr. Bastow had entered into a written agreement with Walker, a publisher, that Walker should publish, print and sell a biblical dictionary written by Bastow; Walker running all risk, and the profits, after paying the expenses, to be divided between them. Walker registered the dictionary in his name at Stationers' Hall, and the court ordered the entry to be expunged.

In *Lover v. Davidson*, 1 C. B., N. S. 182, Samuel Lover, the plaintiff, being in America at the time he registered his copyright, gave his address at 65, Oxford Street, that being his publisher's address, where communications would reach him. This was held sufficient, as it did not appear that he had any other residence in this country at the time.

It was decided in *Murray v. Bogue*, 1 Drew. 353, that if a book was published before 5 & 6 Vict. c. 45, and afterwards published with additions, the proprietor cannot sue for any piracy of the additions unless he has registered the new edition under the act, but he may sue for a piracy of the original matter though he has never registered.

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## CHAPTER V.

### INFRINGEMENT OF COPYRIGHT.

IN the case of works which are the products of original genius, or contain new discoveries in science or art, it is comparatively easy to determine when a violation of copyright has been committed. The only question of difficulty in general is, to what extent the use of such works is to be permitted. Thus Campbell, the poet, obtained an injunction against a collection of English poetry, which included a large proportion of his works, the length of which bears no relation to their value. In this case there was no criticism attempted, and the only original matter was a number of short notices preceding the extracts from each of the authors selected from. So it was considered doubtful to what extent a case of law reports with valuable original notes can be permitted.

But the question generally arises in the case of compilations, such as dictionaries, maps, road-books and encyclopædias. The case of a table of logarithms,

for example, in which the tables must be identical if both are correct, presents considerable difficulties.

One criterion which has been adopted is to ascertain whether such errors as must occur in the first publication, however accurate, are servilely copied in the second. There is no doubt that the second author will not be allowed to make use of the labours of his predecessor except in a fair manner. There are numerous cases on the subject, but we may select one or two in which general principles have been laid down which are universally recognized.

In the case of *Cary v. Kearsley*, 4 Esp. 168, Lord *Ellenborough* said :—"That one part of the work of an author is found in another is not of itself piracy' or sufficient to support an action ; a man may fairly adopt part of the work of another ; he may so make use of another's labours for the promotion of science and the benefit of the public, but, having done so, the question will be, Was the matter so taken used fairly with that view, and without what I may term the *animus furandi* ? Look through the book and find any part that is a transcript of the other ; if there is none such, if the subject of the book is that which is subject to every man's observation, such as the names of the places and their distances from each other ; the places being the same, the distances being the same, if they are correct, one book must be a transcript of the other ; but when in the defendant's book there are additional observations, and in some part of the book I find corrections of misprinting, while I shall think myself bound to secure every man in the enjoyment of his copyright, we must not put manacles on science."

In that case there were errors of printing which had been copied from the plaintiff's book into the defendant's, but Lord Ellenborough said this was not enough, as it was only using an erroneous dictionary and the plaintiff was nonsuited.

The expressions of Lord Ellenborough in this case were quoted and relied on by Wood, V. C., in *Reade v. Lacy*, 1 J. & H. 524, and in *Spiers v. Brown*, 6 W. R. 352.

Again, in *Longman v. Winchester*, 16 Ves. 269, Lord Eldon, said:—"Take the instance of a map describing the particular county afterwards published by another person, if the description is accurate in both, they must be pretty much the same, but it is clear that the latter publisher cannot, on that account, be justified in sparing himself the labour and expense of actual survey and copying the map previously published by another. So as to 'Paterson's Road Book,' it is certainly competent for any other man to publish a book of roads, and if the same skill, intelligence and diligence are applied in the second instance, the public would receive nearly the same information from both works; but there is no doubt that this court would interpose to prevent a new republication of a work which the labour and skill of another had supplied to the world. So in the instance mentioned by Sir Samuel Romilly,—a work consisting of a selection from various authors,—two men might make the same selection, but that must be by resorting to the original authors, not by taking advantage of the selection already made by another." And again, "The question before me is whether it is not perfectly clear that in a vast proportion of the work of these defendants

no other labour has been applied than copying the plaintiff's work. From the identity of the inaccuracies it is impossible to deny that the one was copied from the other *verbatim et literatim*. To the extent, therefore, in which the defendant's work has been supplied from the other work, the injunction must go, but I have said nothing that has a tendency to prevent any person from giving to the public a work of this kind if it is the fair fruit of original labour, the subject being open to all the world." In another case, *Wilkins v. Aikin*, 17 Ves. 422, Lord Eldon said: "The question upon the whole is, whether this is a legitimate use of the plaintiff's publication in the fair exercise of a mental operation deserving the character of an original work." These words were relied on by Lord Cottenham in *Bramwell v. Halcomb*, 3 My. & Cr. 737, and have been quoted with approbation in other cases.

*Bohn v. Bogue*, 10 Jur. 420, was a case in which a life of Lorenzo de Medici, forming the first volume of "Bogue's European Library," was held to be a piracy from "Illustrations of the Life of Lorenzo de Medici."

A case of hand-books will be found in *Murray v. Bogue*, 1 Drew. 353. In that case, Murray, the proprietor of the hand-book for Switzerland, sued the defendant for infringing his copyright in that work by the publication of "Bogue's Guide for Travellers to Switzerland and Savoy." The Vice-Chancellor refused to grant an injunction, on the ground that there was evidence of independent collection of materials by the defendant.

In *Sweet v. Benning*, the facts of which are given *ante*, p. 23, it was held, that the use of the plaintiff's



work by the defendants was piratical. *Jervis*, C. J., said, "It is difficult to lay down a general rule. I do not agree that the publication of any minute portion of another's work would amount to a piracy. It is a question of degree. But in this case I think there was an abuse of the right of extracting, and this is a reprint."

In *Jarrold v. Houlston*, 3 K. & J. 708, the publishers of "Dr. Brewer's Guide to Science" obtained an injunction against the publication of the "Reason Why." The judge said, "The question I really have to try is, whether the use that in this case has been made of the plaintiff's book has gone beyond a fair use. Now for trying that question several tests have been laid down. One, which was originally expressed I think by a common law judge, and was adopted by Lord Langdale in *Lewis v. Fullarton*, is, whether you find on the part of the defendant an *animus furandi*—an intention to take for the purpose of saving himself labour. I take the illegitimate use of another man's works on subject matters of this description to be this. If knowing that a person, whose work is protected by copyright, has with considerable labour compiled from various sources a work in itself not original, but which he has digested and arranged, you, being minded to compile a work of a like description, instead of taking the pains of searching into all the common sources and obtaining your subject matter from them, avail yourself of the labour of your predecessor, adopt his arrangements,—adopt moreover the very questions he has asked, or adopt them with but a slight degree of colourable variation, and thus save yourself pains and labour by availing yourself of the pains and labour

which he has employed, this I take to be an illegitimate use."

The question of the *animus furandi* does not apply to original works, but only to dictionaries and the like. In the case of an original work the question of intention is not important. (*Reade v. Lacy*, 1 J. & H. 524.)

So in *Campbell v. Scott*, 6 Jur. 186, it is said, "Then we are told there is no *animus furandi*, but if A. takes the property of B., the *animus furandi* is inferred from the act." This was a case in which "Campbell's Poems" had been used largely by the compiler of a work on the beauties of English poetry (*ante*, p. 30).

In *Lewis v. Fullarton*, 2 Beav. 6,—the case of a topographical dictionary,—Lord Langdale said, "Any man is entitled to write and publish a topographical dictionary, and to avail himself of the labours of all former writers not subject to copyright, and of all public sources of information; but whilst all are entitled to resort to common sources of information, none are entitled to save themselves trouble and expense by availing themselves, for their own profit, of other men's works still subject to copyright and entitled to protection; and the question is, whether Mr. Bell did or did not, for the compilation of the work in which he was engaged, avail himself of the plaintiff's works unlawfully in violation of their copyright. For the purpose of ascertaining this I have read a very considerable number of articles in both works. The result of the examination appears to me to show that Mr. Bell, in the compilation of his gazetteer, has extensively and, as far as my examination has gone, it would

not be too much to say, habitually made use of all that suited his purpose in the plaintiff's work. It is evident that, in a large proportion of the defendant's work, no other labour has been applied than in copying the plaintiff's work and arranging the matter in the form which best suited the purpose of the compiler." In *Mawman v. Tegg*, 2 Russ. 394, Lord *Eldon* said, "When a considerable number of passages are proved to have been copied by the copying the blunders in them, other passages, which are the same with passages in the original book, must be presumed *primâ facie* to be likewise copied, though no blunders occur in them."

As to abridgements, in *D'Almaine v. Boosey*, 1 You. & C. 298,—a case of a musical composition,—Lord *Lyndhurst* said, "It is a nice question, what shall be deemed such a modification of an original work as shall absorb the merit of the original in the new composition. No doubt such a modification may be allowed in some cases, as in that of an abridgement or a digest,—such publications are in their nature original. Their compiler intends to make of them a new use; not that which the author proposed to make. Digests are of great use to practical men, though not so, comparatively speaking, to students. The same may be said of an abridgement of any study, but it must be a *bonâ fide* abridgement, because if it contain many chapters of the original, or such as make that work most saleable, the author of the abridgement commits a piracy."

A fair and *bonâ fide* abridgement of a work has been held to be a new work, but it would scarcely be safe to rely on this being considered law at the

present time. In speaking of maps, charts and tables of chronology, Lord Eldon said, "I admit no man can monopolize such subjects as the English Channel, the Island of St. Domingo, or the events of the world, and every man may take what is useful from the original work, improve, add and give to the public the whole comprising the original work, with the additions and improvements, and in such a case there is no invasion of any right."

In *Dickens v. Lee*, 8 Jur. 183, *Knight Bruce*, then V. C., said, "I am not aware than one man has the right to abridge the works of another; on the other hand, I do not mean to say that there may not be an abridgement which may be lawful, which may be protected; but to say that one man has the right to abridge, and so publish in an abridged form, the work of another without more, is going much beyond my notion of what the law of this country is. I agree that there may be such a case of another man's publication as, involving the exercise of a new mental operation, may fairly and legitimately involve it."

Lord *Hardwicke* says, in *Gyles v. Wilcox*, 2 Atk. 142, "When books are only colourably shortened, the statute is evaded and the law will give redress. But this must not be carried so far as to restrain persons from making a real and fair abridgement. An abridgement may with great propriety be called a new book. Not only are the paper and printing the abridger's, but in his task he may show invention, learning and judgment. In many cases abridgements are extremely useful, though sometimes they are prejudicial, by curtailing and mistaking the sense of the author." Lord Campbell, in his life of *Hardwicke*, (*Lives of Lord*

Chancellors, vol. 6, p. 202,) questions this rule with regard to literary property, though he admits that it has not been upset, and in a note he says, "I confess I do not understand why an abridgement, tending to injure the reputation and to lessen the profits of the author, should not be considered an invasion of his property."

The author is mixed with the judge in Lord Campbell, and therefore he is scarcely to be taken as speaking judicially on literary subjects. Here he takes it for granted that an abridgement must necessarily injure the reputation and lessen the profits of an author. This is by no means a necessary consequence. It may safely be laid down that such an abridgement would be restrained at the present day. Judge Curtis, in an American work on copyright, has written fully on the subject of abridgement. (Curtis on Copyright, p. 265.)

It cannot be allowed that, in compiling encyclopædias and works of that kind, a use should be made of previous treatises on particular subjects which would have the effect of injuring their sale.

In *Roworth v. Wilkes*, 1 Camp. 94, the defendant had published, in the *Encyclopædia Londinensis*, 75 pages out of 118 of a treatise on fencing belonging to the plaintiff, and also several of the plates. The observations of *Ellenborough*, C. J., in giving judgment, lay down a rule for determining similar questions: "This action is brought for prejudice to a work vested in the plaintiff; and the question is, whether the defendant's work would serve as a substitute for it. A review will not in general serve as a substitute for the book reviewed; and even then, if so much is

extracted that it communicates the same knowledge with the original work, it is an actionable violation of literary property. The intention to pirate is not necessary in an action of this sort: it is enough that the publication complained of is in substance a copy whereby a work vested in another is prejudiced. A compilation of this kind may differ from a treatise published by itself, but there must be certain limits fixed to its transcripts;—it must not be allowed to sweep up all modern works;—or an encyclopædia would be a recipe for completely breaking down all literary property.”

Lord *Ellenborough* had also here established a criterion for ascertaining whether a review of a work is a piracy or not.

In *Whittingham v. Wooller*, 2 Swanst. 428, six or seven pages out of forty pages of a farce, the property of the plaintiff, had been extracted in detached passages, for the purposes of comment, in two parts of a periodical; and it was decided, that this did not amount to a piracy.

*Bell v. Whitehead*, 17 L. J., Ch. 141, was a case in which the defendant commented in the “*Railway Times*,” on an article by the plaintiff in the “*Monthly Chronicle*,” and in so doing made extracts to the extent of four and a half pages out of nineteen.

Lord *Cottenham* held that this was not a piracy. He said, “It is difficult to prescribe the legitimate mode of extracting what is published in other publications, and to lay down the rule of quantity; but it is necessary for a party to be able to substantiate the value of the matter extracted before he comes for an injunction. It appears to me that the subject of the

injunction comes within all the rules which are prescribed for trying what is a fair extract or not. The first is, that they are allowed for the purposes of criticism." He then goes into the facts to show the nature of the controversy, which was about the Great Western Railway; and he goes on to say, "It would be injurious to the public to limit the right of discussing questions of this kind, and for that purpose to make necessary extracts; and the question is, whether this was inserted for the purposes of criticism, and for the purpose of supporting such observations as the editor thinks proper to make. This was the ground proceeded on in *Whittingham v. Wooller*, and is acted on in such publications as the Edinburgh and Quarterly Reviews; and when fairly acted on the result most probably is, that the sale is extended by the notice, when not given for the purpose of superseding the work itself; and if I were to entertain this application, how could I exclude the similar application of one newspaper seeking to restrain the sale of an article taken by another. It is impossible to say there is any value in the nature of property in what is here inserted."

In *D'Almaine v. Boosey*, 1 You. & C. 298, the question arose as to what imitation or use of a musical composition constitutes a piracy.

In that case quadrilles and waltzes had been composed upon airs in an opera, and the proprietor of the opera obtained an injunction to restrain the publication of the quadrilles and waltzes. Lord *Lyndhurst* said, "It is admitted that the defendant has published portions of the opera containing the melodious parts of it; that he has also published entire airs; and that

in one of his waltzes he has introduced seventeen bars in succession containing the whole of the original air, although he adds fifteen other bars which are not to be found in it. Now, it is said that this is not a piracy, first, because the whole of each air has not been taken, and, secondly, because what the plaintiffs purchased was the entire opera, and the opera consists not merely of certain airs and melodies but of the whole score. But, in the first place, piracy may be of part of an air as well as of the whole one; in the second place, admitting that the opera consists of the whole score, yet, if the plaintiffs were entitled to the whole, *à fortiori* they were entitled to publish the melodies which form a part. \* \* \* I remember, in a case of copyright at Nisi Prius, a question arising as to how many bars were necessary for the constitution of a subject or phrase. Sir George Smart, who was a witness in the case, said, that a mere bar did not constitute a subject or phrase, though three or four bars might do so. Now it appears to me that, if you take from the composition of one author all those bars consecutively which form the entire air or melody, without any material alteration, it is a piracy; though, on the other hand, you might take them in a different order or broken by the intersection of others, like words, in such a manner as should not be a piracy. It must depend on whether the air taken is substantially the same with the original. Now the most unlettered in music can distinguish one song from another; and the mere adaptation of the air, either by changing it to a dance, or by transferring it from one instrument to another, does not even to common apprehension alter the original subject. The ear tells you that is the



same. The original air requires the aid of genius for its construction, but a mere mechanic in music can make the adaptation or accompaniment. Substantially the piracy is, when the appropriated music, though adapted to a different purpose from that of the original, may still be recognized by the air. The adding of the variations makes no difference in the presence."

In the case of *Chappell v. Davidson*, 2 K. & J. 123, a song called "Lillie Dale" had been published and was well known in America, (where the air of it had been invented,) and had also been published in England. Messrs. Jullien & Co., music publishers in London, procured words to be written to suit the air, which they adapted with some alterations, and gave to the new song the name of "Minnie," and procured it to be sung at some public concerts by Madame Anna Thillon, by which means the song acquired considerable popularity, and Messrs. Jullien published it with a title page on which were printed the words "Minnie, sung by Madame Anna Thillon," and a portrait of Madame Anna Thillon. Davidson, another music publisher in London, after Messrs. Jullien's publication, published a song set to the same air, with some changes, and called "Minnie, dear Minnie," with a title page on which were printed these words, followed by the portrait of a woman underneath, under which portrait were printed the words "Madame Anna Thillon." The court inferred that he meant the public to understand that the thing which he was about to sell was the identical song sung by Madame Anna Thillon under the name of "Minnie," and therefore granted an injunction to restrain the sale of Davidson's song. And it was held, that it was no defence for Davidson to

allege that he cautioned his shop boys and others to say that the song published by him was not the song published by Messrs. Jullien, since he sold copies to retail dealers, and there was no security that these retail dealers would sell them with the same caution to the public. And it was also held, that the fact of an entry at Stationers' Hall of the whole of the song as published by Messrs. Jullien, and therefore as including the original music in which they had no copyright, was not a wilful or fraudulent misrepresentation to the public of the rights of the composer or writer whom Messrs. Jullien had employed in the preparation of the song, and therefore did not deprive them of their right to an injunction. *Wood, V. C.*, said, "There are four things by which a song which acquires popularity are distinguished ;—the name of the song ; the person by whom it is sung ; the name of the composer, and that of the publisher. In this case the plaintiff had acquired a copyright in the name "Minnie;" and there is also the very important ingredient of the song having been sung by Madame Anna Thillon, at Jullien's. The defendants have not pirated the name of the composer or publisher, but a purchaser would ask for "Minnie, as sung by Anna Thillon."

In *Novello v. Sudlow*, 12 C. B. 177, the question arose whether the printing a work for gratuitous circulation is a violation of copyright, and it was held that it is. The case is not provided for by section 15 of 5 & 6 Vict. c. 45, but it comes within the general words of section 2. In *Novello v. Sudlow*, the plaintiff had published in his part song book a musical composition with accompanying words, called "Benedict's

Part Song, the Wreath." The Liverpool Philharmonic Society was about to perform at a concert for which this piece formed part of the performance, and the defendant was a member of the committee of the society. The defendant accordingly caused 250 copies of the plaintiff's piece to be lithographed for gratuitous circulation among the members of the society who were to take part in performing the piece, and for no other purpose. It was held that he was liable to an action for so doing.

In the case of *Hotten v. Arthur*, 2 N. R. 485, a bookseller's catalogue was protected from piracy, as containing a description of the books offered for sale, with short anecdotes relating to them.

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## CHAPTER VI.

### REMEDIES FOR INFRINGEMENT OF COPYRIGHT.

THE remedies for infringement of copyright are by suit in equity and by action at law, and in some cases by summary procedure before justices of the peace. In a suit in equity an injunction may be obtained to restrain publication, and an account taken of profits. An injunction may now be claimed at common law since 17 & 18 Vict. c. 125. Damages may be recovered for infringement, and in certain cases pirated copies may be recovered in detinue, or their value in trover. This is under section 23 of 5 & 6 Vict. c. 45. Pirated copies cannot be recovered in equity, but only at law. *Delf v. Delamotte*, 3 K. & J. 581. It is

necessary, in order to maintain any action or suit, that the plaintiff should have registered his copyright under the provisions before mentioned. By the 15th section of 5 & 6 Vict. c. 45, an action is given against any person who prints, or causes to be printed, any book in which there is a subsisting copyright, without the consent in writing of the proprietor, or imports for sale or hire any such unlawfully printed book from foreign parts, or knowingly sells, publishes, or exposes to sale or hire, or has in his possession for sale or hire, any book so unlawfully printed or imported without the consent of the proprietor. As to English books reprinted abroad, any book so reprinted and imported for sale or hire into the British dominions may be seized and destroyed by any officer of the customs or excise. The case is the same, if any person knowingly sell, or expose for sale, or let to hire, or have in his possession for sale or hire, any such book.

The proprietor of copyright must not allow any time to elapse after he discovers an infringement in interfering to prevent it. In *Chappell v. Davidson*, 2 K. & J. 123, *Wood*, V. C., refused to interfere until a delay of three months had been accounted for.

In any action for piracy, the defendant must give notice of the objections on which he intends to rely, and if his defence is that some other person than the plaintiff was the author, or first publisher, or is the proprietor of the copyright, he must give the name of such person, together with the title of the book, and time and place of the first publication, otherwise he cannot give any evidence of his objections, and he cannot give evidence that any person, unless named in his notice,

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was the author or first publisher, or the proprietor of the copyright, or evidence of any book which does correspond substantially as to title and date, and place of publication, with the book mentioned in his notice, sect. 16.

In *Leader and Cock v. Purday*, 7 C. B. 4, a gentleman named Bellamy, wrote words adapted to an old air called "Pestal," and got a friend of the name of Horne to write an accompaniment. The defendant gave notice of the following objections among others: "that the plaintiffs were not the owners of the copyright; that there was no subsisting copyright in the musical publication." It was held that the objection could not be taken by the defendant, that the copyright of the air was in Horne, and not assigned by writing to Bellamy, as Horne's name was not mentioned in the objections as required by section 16 of 5 & 6 Vict. c. 45. This was decided, although the objection appeared upon the plaintiff's case.

Any person importing for sale or hire a book printed in the United Kingdom and pirated abroad, or having in his possession, knowingly, for sale or hire, any such book, may be convicted before two justices of the peace in the penalty of 10*l.*, and double the value of the pirated copies, and half of the penalty is to go to the officer of customs or excise who seizes the book, and half to the proprietor of the copyright. There is no prohibition against a person importing pirated books for his own private use, but by 8 & 9 Vict. c. 86, s. 63, such books may be seized, where the proprietor of the copyright has given notice of the copyright to the commissioners of customs.

All proceedings for the violation of the provisions

of the Copyright Act, 5 & 6 Vict. c. 45, must be commenced, according to section 26, within twelve months after the commission of the act complained of, but this does not apply to suits in equity, or to actions at common law for the infringement of copyright.

The act 2 & 3 Vict. c. 22, imposes a penalty of 5*l.* per copy for every omission to print the name and place of abode of the printer, on the first or the last leaf of every paper or book. It is no answer, however, to an action for infringing the copyright of a work, that it was printed and published without the name and residence as required by the act. *Chappell v. Davidson*, 18 C. B. 194. The obvious reason is, that printing and publication are not necessary before bringing an action.

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## CHAPTER VII.

### PERIODICAL PUBLICATIONS.

WITH regard to articles in periodical works there is a special provision, by 5 & 6 Vict. c. 45, s. 18. Any person who projects, conducts, carries on or is the proprietor of any encyclopædia, review, magazine, periodical work, or work published in a series of books or any book, and employs persons to contribute on the terms of the copyright belonging to him, has a copyright in the whole work for the usual term. But as to articles, essays and other compositions in reviews, magazines or other periodical works of a like nature,

the right of publishing them in a separate form reverts, after twenty-eight years, to the author for the remainder of the term, and during the first twenty-eight years the publisher of the periodical cannot republish the articles in a separate form without the previous consent of the author or his assigns. It is not necessary that the author of an article in a magazine should register at Stationers' Hall before proceeding against the proprietor for republishing it in a separate form without the author's leave. *Mayhew v. Maxwell*, 1 J. & H. 312.

Of course these provisions do not affect cases where any special contract has been entered into, by which the author reserves the right of separate publication, and there is an express exception to this effect in the act.

The publisher of any review, magazine or other work published in parts is sufficiently protected if he registers the first number or part, according to the provisions of section 19 of 5 & 6 Vict. c. 45.

In the case of the *Bishop of Hereford v. Griffin*, 16 Sim. 190, the present Bishop of Hereford, Dr. Hampden, had written a learned and elaborate article on Thomas Aquinas, for the "Encyclopædia Metropolitana." The defendant, who was the proprietor of the Encyclopædia, published the article in a separate form without the author's consent, and the court, on the application of the bishop, granted an injunction to restrain him. There did not appear to have been any express understanding between the parties before the article was written, except that it was to be composed for the Encyclopædia. The defendants alleged that there was a custom in the publishing trade and among

authors, that in the absence of any express agreement, articles contributed to Encyclopædias and paid for by the proprietors of the Encyclopædias, were always understood to be contributed on the terms that the copyright should belong for all purposes to the proprietors of the Encyclopædias. It was decided, however, that this custom does not exist, and that the proprietor of an Encyclopædia, who employs a person to write an article for publication in that work, cannot, without the writer's consent, publish the article in a separate form or otherwise than in the Encyclopædia, unless the article was written on the terms, that the copyright in it should belong to the proprietor of the Encyclopædia for all purposes.

Under the 18th section of the act 5 & 6 Vict. c. 45, it is necessary, in order to give the proprietor of a periodical work the right to proceed for an infringement of his copyright, that he should actually have paid the writer of the contribution in respect of which he sues.

Actual payment is necessary, and a promise to pay or a contract to pay is not sufficient. *Richardson v. Gilbert*, 1 Sim., N. S. 337.



## CHAPTER VIII.

## AGREEMENTS BETWEEN AUTHORS AND PUBLISHERS.

IF a man agree to write a book for a publisher or conduct a periodical or the like, the Court of Chancery will not compel him to do so, and the only remedy is by an action at law for breach of contract. This was decided in *Clark v. Price*, 2 Wils. C. C. 157, a case in which Price, the defendant, being a barrister, agreed to furnish law reports. An author may, however, bind himself not to write on a particular subject or to write only for a particular person.

If an edition of a work is sold by an author to a publisher, the number of copies of which the edition is to consist should be stated, because, otherwise, difficult questions may arise between the parties. In *Reade v. Bentley*, 27 L. J., Ch. 254, *Wood*, V. C., said :—I apprehend that if a publisher choose to print 20,000 copies, keeping in his storehouse a large quantity and periodically issuing them to the world, by thousands for instance, every such issue would be an edition. See that case and *Sweet v. Cator*, 11 Sim. 572 ; *Stevens v. Benning*, 1 K. & J. 571 ; 6 De G. M. & G. 223 ; *Benning v. Dove*, 5 C. & P. 427, as to agreements between authors and publishers.

When an author sells the copyright of a work to a publisher for a certain time, the publisher has the right, after the expiration of the time, of selling copies of the work which he has printed before the time ex-

pired. This was recently decided by Wood, V. C., in the case of *Howitt v. Hall*, 10 W. R. 381. In that case, the plaintiff, Mr. William Howitt, had sold to the publishing firm of Messrs. Hall and Virtue, the copyright of a book called "A Boy's Adventures in the Wilds of Australia," for four years. The arrangement was made in the first instance by Mrs. Howitt, the plaintiff's wife, and the following memorandum was afterwards signed by the plaintiff:—

"GENTLEMEN,—I confirm the agreement entered into with you by Mrs. Howitt on the 14th of March, 1854, for the publication of 'A Boy's Adventures in Australia,' being a copyright of four years from that date.  
"WILLIAM HOWITT."

The term of four years, it will be seen, expired in 1858, but it was not till 1862, according to the plaintiff's statement, that he discovered that the defendants had continued to sell copies of the work after the expiration of the four years. He then filed a bill asking for an account of the profits made by the defendants from the sale of the book since March, 1858, and that they might be restrained from selling any more copies. The defendants alleged that they had not sold any copies except copies printed by them before March, 1858, and maintained that they had a right to sell off copies printed before that time. Mr. Howitt contended that it was at the defendants' own risk that they had overstocked themselves and they must bear the loss. Mr. Howitt also maintained that if the assignment of a copyright for a limited term were to confer upon the assignee the right of continuing after the expiration the sale of any number of copies, however large, which he might have previously printed,

it would be a great hardship on the author and might have the effect of entirely depriving him of all benefit in the copyright. The Vice-Chancellor's answer to this argument was, that a publisher was not likely to incur the useless expense of printing copies enough to exhaust the demand for all time and have them lying upon his hands unprofitably. However, whether this was so or not, Mr. Howitt had not provided himself against such a contingency. Copyright, according to 5 & 6 Vict. c. 45, is the sole and exclusive liberty of printing a work. Messrs. Hall and Virtue had that right during four years, and might sell the copies printed at any time.

This decision was much complained of by Mr. Howitt and other persons, but it is obvious that no other decision was possible. The whole misunderstanding arose from the want of proper care and accuracy in preparing the agreement. If it had been intended that all copies unsold in March, 1858, were to be the property of Mr. Howitt, it would have been easy to state it. With regard to the alleged hardship upon authors, it is not likely that another agreement would be drawn up in the same loose terms; but, if it were, it would be impossible to interpret copyright to mean right of selling. In case Messrs. Virtue and Hall wished to defraud Mr. Howitt, the decision of the Vice-Chancellor was not required to give them the opportunity. According to Mr. Howitt's own case, in February, 1858, they had a right to print any number of copies of the work and sell them at the same time to another firm; and if it was worth while to run the risk of printing them, it was worth while to run the risk of buying them.

But the Vice-Chancellor said that if fraud had been made out, the court would have known how to deal with it. No doubt, in any case of fraud on an author, the court would interfere.

*Cox v. Cox*, 11 Hare, 118, was a case in which the defendant, a house agent, having prepared a book on the sale of estates, applied to the plaintiff, a barrister, to correct the work and to supply the legal matter necessary to complete it. A dispute afterwards arose between them as to the quantity of legal matter to be inserted, the defendant wishing his book to be a popular one. The plaintiff refused to allow his additions to be used unless the whole were published, and the defendant proceeded to publish the book containing the plaintiff's contributions curtailed and altered. The plaintiff applied for an injunction which Vice-Chancellor Wood refused. The Vice-Chancellor considered that after *Clarke v. Freeman*, 11 Beav. 112, the effect of mistakes on the plaintiff's reputation could not be considered. This might be taken to be inconsistent with *Archbold v. Sweet*, 3 C. & P. 219, cited page 54. However, it is to be observed, that in *Cox v. Cox*, the work was to be published in the defendant's and not in the plaintiff's name.

The case of *Clarke v. Freeman*, 11 Beav. 112, was a case in which Lord Langdale, M. R., refused to grant an injunction to restrain a chymist from selling a quack medicine, under the false representation that it was the medicine of Sir James Clarke. The ground on which the injunction was applied for was the injury to Sir James's reputation, and Lord Langdale considered that this was not enough to induce the court to interfere, no pecuniary injury being alleged.

This does not seem analogous to the case of a book, for there there is a contract between the parties. The cases would be similar if Sir James had furnished the defendant with medicine to be sold for some particular disease, and the defendant had sold it in Sir James's name for some other disease, to which it was not adapted. In such a case it would seem the court would interfere.

In *Brooke v. Chitty*, 2 Cooper's Cases, 216, the defendant had undertaken not to write or edit any work upon the Criminal Law, except a work of which the plaintiff had purchased the copyright. An advertisement of an edition of "Burn's Justice of the Peace" by the defendant had appeared. *Brougham, L. C.*, refused to grant an injunction, and said the court would not interfere until actual printing and publication.

If the publisher have the copyright of a book, he must not publish a new edition under the author's name so incorrect as to be injurious to the author's reputation. If he does so the author may bring an action for damages against him. This was decided in the case of a law book in *Archbold v. Sweet*, 3 C. & P. 219.

## CHAPTER IX.

## COPYRIGHT IN LECTURES.

LECTURES are protected by 5 & 6 Will. 4, c. 65, which is given in the Appendix, but in order to obtain the benefit of the act the lecturer must give two days' previous notice of his intention to deliver the lecture, to two justices of the peace living within five miles of the place of delivery. This restriction has prevented the provision from being of general utility. There is an exception as to certain lectures, for which the reader is referred to the statute itself, section 5.

We have seen from the case of *Abernethy v. Hutchinson*, 1 H. & T. 28 (a), that if there be an implied contract between a lecturer and his hearers, that none of the latter shall publish the lecture, the publication of the lecture by any one except the lecturer will be restrained. Such an understanding is implied in the case of lectures given to pupils for fees, and it is in the power of any lecturer to say to his audience, "I do not consent that you should publish my lecture," and to prevent the publication after that announcement.

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(a) Ante, p. 4.

## CHAPTER X.

## DRAMATIC AND MUSICAL COPYRIGHT.

By the statute 3 & 4 Will. 4, c. 15, the proprietor of the right of representing any dramatic piece or musical composition may recover for any representation without his consent, either the sum of forty shillings or the amount gained by the representation, or the amount of loss to the proprietor of the right, whichever is the greater. Double costs are now taken away in all cases by 5 & 6 Vict. c. 97, and the plaintiff can only recover, in the words of the act, a full and reasonable indemnity as to all expenses incurred, to be taxed by the proper officer in that behalf. All proceedings must be taken within twelve calendar months after the commission of the offence.

The consent which is necessary under 3 & 4 Will. 4, c. 15, may be given by the author's agent, though it must be in writing. *Morton v. Copeland*, 16 C. B. 157. In that case the plaintiff was a member of the Dramatic Authors' Society, and it was decided that the Dramatic Authors' Society are agents of their members, for the purpose of authorizing managers of theatres to perform pieces composed by their members.

An action may be brought under 3 & 4 Will. 4, c. 15, by the proprietor of a dramatic piece or musical composition, although he has not registered his title under 5 & 6 Vict. c. 45, s. 20. *Russell v. Smith*, *infra*.

The other provisions as to dramatic pieces and

musical compositions are contained in 5 & 6 Vict. c. 45, ss. 20 and 21.

These latter provisions are not so restrictive as those in the act of William. They do not in words make it necessary that an infringement, in order to be actionable, should be committed at a place of dramatic entertainment.

By 5 & 6 Vict. c. 45, ss. 20 and 21, the proprietor of a dramatic piece or musical composition shall have the exclusive right of performing or representing it during the period to which ordinary copyright extends.

No mention is made of a place of dramatic entertainment; but it has never been judicially decided that an infringement, which is not committed in a place of dramatic entertainment, would be the subject of an action. It is true that, in *Russell v. Smith*, 15 Sim. 181, the vice-chancellor expressed an opinion to that effect, but this was not a formal decision. The question was raised in *Russell v. Smith*, 12 Q. B. 217, but the judges did not express an opinion upon it, because the case was decided upon another ground. In that case Mr. Russell, the author of a song called "The Ship on Fire," sued for penalties incurred by an unauthorized performance of it at Crosby Hall, Bishopsgate Street. The judgment did not proceed upon 5 & 6 Vict., but upon the act of William; and it was decided that Crosby Hall became a place of dramatic entertainment by the singing of the plaintiff's song, although it was not licensed and there was no scenery or costume. The song was one which related the burning of a ship at sea and the escape of those on board, describing their feelings in



vehement language, and sometimes expressing them in the supposed words of the sufferers. Such a song is dramatic, and therefore within the meaning of the statute, although it be sung by one person sitting at a piano, who gives effect to the verses by his delivery, but is not assisted by scenery or appropriate dress. And a room where the song is performed, to which persons paying for tickets are admitted for the purpose of hearing it, is for the time a place of dramatic entertainment, within the meaning of the statute, though the room be ordinarily used for different purposes.

What degree of connection with an unauthorized representation is necessary to make a man liable to an action, under 3 & 4 Will. 4, c. 15, is a question that was considered in the case of *Russell v. Briant*, 8 C. B. 836. *Wilde, C. J.*, said, in giving judgment for the defendant, "No one can be considered as an offender against the provisions of the statute, so as to subject himself to an action of this nature, unless by himself or his agent he actually takes part in a representation which is a violation of copyright. And if it were to be held that all those, who supply some of the means of representation to him who actually represents, are to be considered as thereby constituting him their agent, and thus causing the representation within the meaning of the act, such a doctrine would, we think, embrace a class of cases not at all intended by the legislature."

The action was brought to recover penalties for an unauthorized performance of Mr. Russell's song of "The Ship on Fire" (the same song as was the subject of the action of *Russell v. Smith*, ante, p. 57),

at the defendant's tavern; and the facts of the case are thus stated in another part of the judgment.—“It appeared at the trial that ‘The Ship on Fire’ had been represented at the Horns Tavern at Kennington, of which the defendant was the landlord; and that a room in the tavern had been hired from the defendant by one Smith for the purpose of public evening musical entertainments; that after the performances, including ‘The Ship on Fire’ and other musical compositions, had been continued for some nights, notice was given to the defendant by the plaintiff, that he was the proprietor of the copyright of ‘The Ship on Fire,’ and requiring that its representation should be discontinued; that the defendant, after the notice, had some communication with Smith, who avowed his intention of continuing the representation, notwithstanding the notice; and that the representation was accordingly continued by him, without any opposition on the part of the defendant, in the room of the Horns Tavern. It was also proved that the defendant furnished the platform and the lights for the performances, and allowed bills of them to be put up in the tavern, and tickets of admission to be advertised to be sold at the bar, and that he had himself sold one of such tickets.”

In *Lyon v. Knowles*, 32 L. J., Q. B. 71, the defendant, the proprietor of a theatre, allowed Mr. Dillon to have the use of it; and during his occupation pieces were performed which the plaintiff had the sole property in. The defendant provided the band, the scenseshifters, the supernumeraries, the money takers, and paid for printing and advertisements. Mr. Dillon employed his own company and selected the pieces,

free from any control by the defendant. The money taken at the doors was divided equally between the defendant and Mr. Dillon. It was held that the plaintiff could not recover against the defendant for the unauthorized representations.

In *Lee v. Simpson*, 3 C. B. 871, it was decided that a pantomime, or rather the introduction to a pantomime, which is the only written part of the entertainment, is protected from piracy by 3 & 4 Will. 4, c. 15.

*Planché v. Braham*, 8 C. & P. 68, shows what is considered a representation under the act. If the words of one song only are taken from a musical or dramatic piece protected by the act, or sung on a stage or any place of theatrical entertainment, that will be such a representation as is actionable. Representing, within the meaning of the act, is defined to be the bringing forward on a stage or place of public representation; and the question whether, in any particular case, the act done amounts to a representation, is a proper question for the jury.

In *Reade v. Conquest*, 30 L. J., C. P. 209, it was decided, that no action will lie, at the suit of the author of a novel against a person who dramatizes it and causes it to be acted on the stage, without his consent. The result of this case and of *Reade v. Lacy* is, that, if a writer first publishes a play, and then turns the play into a novel, he can prevent his novel from being dramatized, but that if he publishes the novel first he has no such protection.

In *Reade v. Lacy*, 1 J. & H. 524, V. C. Wood decided that the author of a play, who afterwards turns it into a novel, does not forfeit his right to

prevent piratical imitations of the play, although no action will lie for dramatizing a novel, as decided in *Reade v. Conquest*. This was a case in which Mr. Charles Reade had composed a drama, called "Gold," the leading incidents of which he afterwards embodied in a work called "Never too Late to Mend." This novel the defendant dramatized, introducing numerous passages to be found in the play of "Gold," several pages being almost word for word. His Honor held that it was no defence to say that the defendant was unaware of the existence of "Gold," and that his ignorance could not justify him in using another man's property. So, if a novel is dramatized, the court will restrain the publication of the play, the language and incidents being the same in both, though the acting of the play cannot be prevented. *Tinsley v. Lacy*, 2 N. R. 438.

A device has been adopted to give the author of a novel the right to prevent its being dramatized without his consent. This can be effected, if the author dramatizes the novel himself and registers the play.

## CHAPTER XI.

## COPYRIGHT IN ENGRAVINGS.

THE acts in reference to prints and engravings are 8 Geo. 2, c. 13, 7 Geo. 3, c. 38, 17 Geo. 3, c. 57, and 6 & 7 Will. 4, c. 59, printed in the Appendix. Their provisions are very confused. The protection granted is for 28 years from the first publication. The prints must have been drawn as well as published in Great Britain, or, it would seem since 6 & 7 Will. 4, c. 59, in Ireland. *Page v. Townsend*, 5 Sim. 297. This was decided on the wording of 17 Geo. 3, which it was held extended to the other statutes. The name of the proprietor, and date of publication, must appear in the original print, otherwise no proceedings can be taken. The word proprietor need not appear. Under 8 Geo. 2, c. 13, any person pirating a print, or knowingly selling pirated copies, is liable to pay a penalty of five shillings for every pirated print found in his custody, half to the informer, half to the owner, and the plates and copies are to be destroyed. An action for penalties must be brought within three months after the offence. By 7 Geo. 3, c. 38, any person procuring a plate to be engraved from his own design has the same protection, and an action for penalties must be brought within six months. This act also protects maps, charts, and plans. By 17 Geo. 3, c. 57, an action is given against any person copying any print or map, in the whole or in part, by varying, adding to, or diminishing from, the main

design, or importing for sale, selling, or publishing any pirated print or map. It is not necessary, under the last act, that the person selling a pirated print should be aware of the piracy, in order to render him liable to an action. *Gambart v. Sumner*, 5 H. & N. 5. Accordingly, if a printseller sell a pirated print, not knowing that it is pirated, he is liable to an action, although he is not liable for penalties. Making a picture from an engraving, and exhibiting it as a diorama, is not an infringement for which an action can be brought. *Martin v. Wright*, 5 Sim. 297. A new engraving may be made from a picture without any piracy of an old engraving of the same picture. *De Berenger v. Wheble*, 2 Stark. 548.

It is not necessary that the copy should be precisely a facsimile, and the question is one for the jury. When a work is published containing letter-press and engravings, the proprietor's name need not be printed on the engravings. *Bogue v. Houlston*, 5 De G. & J. 267.

By 6 & 7 Will. 4, c. 59, the provisions of the previous acts are extended to Ireland.

It is a question for the jury, whether the plaintiff's work has been improperly imitated. *Moore v. Clarke*, 9 M. & W. 612. In that case the print of a mare called "Beeswing" was altered into a portrait of "Coronation, winner of the Derby, 1841." The only variation was in the direction in which the horse was running, and a slight change in the dress of the jockey. Copying by photography is within the acts (*Gambart v. Ball*, 14 C. B. 306); so lithography, or any mechanical process by which copies can be multiplied indefinitely 15 Vict. c. 12, s. 14. By 25 & 26 Vict. c. 68,

s. 8, all penalties and forfeitures under the acts for the protection of engravings may be enforced by a summary proceeding before two justices of the peace, having jurisdiction in the place where the offender resides.

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## CHAPTER XII.

### COPYRIGHT IN SCULPTURE.

THE acts with reference to sculpture are 38 Geo. 3, c. 71, 54 Geo. 3, c. 56, printed in the Appendix. The provisions of 54 Geo. 3, c. 56, apply to all representations of the human figure or of animals, or of any subject being matter of invention in sculpture. The artist has the copyright for fourteen years from the time of publication, and if he be living at the end of that time, and have not parted with the copyright, for fourteen years longer. The proprietor must put his name and the date on every new and original sculpture, model, copy, or cast, before publication. The remedy against any person making, or importing, or causing to be made or imported, or exposed for sale, or otherwise disposed of, any pirated copy or cast (a), is by an action for damages to be brought within six months after discovery of the offence. Copyright in sculpture can only be transferred by deed, to be executed in the presence of two witnesses. The offence of piracy is committed by moulding, or copying from, or imitating in any way, a production protected by the act. The act is peculiarly obscure, and badly worded.

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(a) *Gahagan v. Cooper*, 3 Camp. 111.

If the provisions as to registration of sculpture, contained in 13 & 14 Vict. c. 104 (see Appendix), are complied with, the proprietor will be able to recover the penalties inflicted by that act. The registry office is at No. 1, Whitehall. Every copy or cast made by the proprietor must be marked with the word "registered," and with the date of registration, to entitle him to the benefit of the act.

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### CHAPTER XIII.

#### COPYRIGHT IN PAINTINGS, DRAWINGS AND PHOTOGRAPHS.

AN act was passed in the last session of parliament, 25 & 26 Vict. c. 68, for the protection of paintings, drawings and photographs. It is intituled "An Act for amending the Law relating to Copyright in Works of the Fine Arts, and for repressing the Commission of Fraud in the Production and Sale of such Works." This act is printed in the Appendix. It came into operation on the 29th July, 1862. The preamble states that by law as now established the authors of paintings, drawings and photographs have no copyright in such their works, and the provisions of the act are intended to supply this defect. The paintings, drawings and photographs in existence on the 29th July, 1862, which are protected by the act, are those only which the author had not sold previously to that time. There is consequently no copyright in works executed and disposed of by the author (or executed



on commission, as it would seem,) before the 29th July, 1862. The copyright is given to the author and his assigns, but the author must be a British subject, or resident within the dominions of the crown, but the work itself may have been executed either in the British dominions or elsewhere.

It does not clearly appear at what period it is necessary for a person, not a British subject, to be resident within the British dominions in order to acquire a copyright. It is now settled that a person, not a British subject, who publishes a book, must be resident within the British dominions at the time of publication, in order to acquire a copyright in the book, but publication does not apply to the subject-matter of this act, nor is the word publication used in it. It would therefore seem that a person not a British subject must be resident within the British dominions during the execution of a painting, drawing or photograph, in order to acquire a copyright in it. The copyright conferred by the act is defined to be the sole and exclusive right of copying, engraving, reproducing and multiplying the painting or drawing, and the design thereof, or the photograph, or the negative thereof, by any means and of any size. The term of copyright is for the life of the author and seven years after his death. Here, again, we have a difference from literary copyright, which dates from publication. Under the first section, where a painting, drawing or the negative of a photograph, after the passing of the act, is sold or disposed of, an agreement must be made between the parties and signed by the one who does not take the copyright, to the effect that the other is to be entitled to the copyright. An agent may sign

for the vendor but not for the vendee. The agreement must be signed at or before the time of sale, in the case of a sale, but the act does not state at what time it must be signed where a work is executed on commission, so as to entitle the author to copyright. It would be safer to have the agreement signed before the work is begun. When a painting, drawing or the negative of a photograph is executed on behalf of any other person for a good or a valuable consideration, the act requires an agreement to be signed by the person on whose behalf the same is executed, in order to give the artist the copyright.

In the latter part of the clause it is enacted, that the vendee or assignee shall not be entitled to copyright unless an agreement is signed, but the person for or on whose behalf a work is executed for a good or a valuable consideration is not mentioned, so that the latter is exempted from the operation of this part of the clause. It seems that an agreement in reference to the copyright must be signed, not only when a painting, drawing or negative of a photograph is sold for the first time, but on every subsequent sale or disposition, otherwise the copyright will be at an end. The words in the clause, "for the first time after the passing of the act," appear to be intended to exclude sales before the act. A good consideration is one of blood or natural love and affection. The agreement mentioned must contain, according to the decisions on the Statute of Frauds, the names of both parties, the subject-matter and the consideration.

By the third section of the act, every assignment of copyright, and every licence to use or copy a design or work which is the subject of copyright, must be by

writing, which must be signed by the proprietor of the copyright or his agent, appointed in writing. The agent mentioned in the first section need not be appointed in writing.

The fourth section of the act provides for registration of the copyright created by the act. A book is to be kept at Stationers' Hall called "The Register of Proprietors of Copyright in Paintings, Drawings and Photographs." A memorandum of every copyright and assignment of copyright is to be made in this register, and the memorandum is to contain the date of the agreement creating the copyright or of the assignment, and the names of the parties, and the name and place of abode of the person in whom the copyright is vested by virtue thereof, and the name and place of abode of the author of the work, together with a strict description of the nature and subject of the work; and in addition thereto, if the person registering shall so desire, a sketch, outline or photograph of the work.

It is provided that no proprietor of copyright shall be entitled to the benefit of the act until such registration, and no action shall be sustainable or any penalty be recoverable in respect of anything done before registration. This is another difference from literary copyright. An action may be brought after registration of literary copyright for a violation of the right committed before registration. A question may arise on the wording of the fourth section whether an action may be brought by an assignee of the copyright in a painting, drawing or photograph, for an injury committed before the registration of his assignment, but after the registration of the original copyright.

Apparently it may, and such registration has a different meaning from the word "registration," which is the last word in the clause. By clause 5 of the act, the eleventh, twelfth and fourteenth sections of 5 & 6 Vict. c. 45, are made applicable to the book of registry provided by the act. The fee on making an entry is to be one shilling instead of five shillings, as in the case of literary copyright. The forms of entry given in the schedule to 5 & 6 Vict. c. 45, may easily be adapted to the registration of artistic copyright. A form is supplied on application at Stationers' Hall, a copy of which is given in the Appendix. The sections with regard to remedies for the infringement of artistic copyright are 6, 8, 9 and 11. By section 6 an offence is committed where any person shall, without the consent of the proprietor of the copyright, repeat, copy, colourably imitate or otherwise multiply for sale, hire, exhibition or distribution, or cause or procure to be repeated, copied, colourably imitated or otherwise multiplied for sale, hire, exhibition or distribution, the work or the design thereof.

An offence is likewise committed against the sixth section where any person shall knowingly import into any part of the United Kingdom, or sell, publish, let to hire, exhibit or distribute, or offer for sale, hire, exhibition or distribution, or cause or procure to be imported, sold, published, let to hire, distributed or offered for sale, hire, exhibition or distribution, any piracy of the work. The consent of the proprietor need not be in writing.

The penalty for every offence is 10*l.*, to be forfeited to the proprietor of the copyright, and all piratical repetitions, copies and imitations, and all negatives of photo-

graphs made for the purpose of obtaining such copies, are declared to be forfeited to the proprietor of the copyright.

All penalties and effects forfeited may be recovered in England, either by action or by a summary proceeding before any two justices having jurisdiction where the party offending resides. It will be observed, that a guilty knowledge is necessary to be shown, in order to recover penalties under section 6, but by the 11th section, which is in nearly precisely similar words, an action for damages and to recover pirated copies is given against any person selling a pirated copy, whether he knows it to be pirated or not. There are slight differences between the wording of the 6th and 11th sections, which it would have been desirable to avoid. The words "the negative of any such photograph" are omitted from the 6th section, and the word "exhibited" is also omitted in one place, apparently by a clerical error. It appears that pirated copies may be recovered, under the 6th and 8th sections, before two justices of the peace, whether the possessor is aware of their being piracies or not. The words "forfeited by offenders" in the 8th section furnish, however, an argument against this construction,—a construction founded on the wording of the latter part of section 6.

By section 9, power to make an order for an injunction, inspection, or account is given to the courts of common law in actions under sections 6 and 8, but this provision does not apply to actions under section 11.

A court of equity will interfere to protect artistic copyright in the same way as literary copyright.

Section 10 prohibits the importation into the United Kingdom of pirated copies made in any foreign state, or in any part of the British dominions, and enables the

custom house officers to detain pirated copies, under the conditions mentioned in the act.

By section 12, the International Copyright Act, 7 & 8 Vict. c. 12, is incorporated in the present act.

We have now to go back to section 7, which does not refer to copyright, but is intended to prevent frauds in the sale of pictures. The offences created are shortly as follows :—First. Fraudulently affixing to a painting, drawing or photograph any name, initial or monogram. Second. Fraudulently selling, publishing, exhibiting or disposing of, or offering for sale, &c. any work with a false name, &c. Third. Fraudulently disposing of a copy as an original. Fourth. Selling or offering for sale a work which has been altered, or a copy thereof, as an unaltered work of the author without his consent, or selling a copy of the altered work as unaltered. The fourth offence must be committed during the life of the author. In all these four cases the person whose name, initials or monogram is affixed, or to whom the spurious or altered work is ascribed, must have been living within twenty years, and he or his representative is entitled to recover the copies, engravings, imitations or altered works. The offender is also to forfeit to the person aggrieved a sum not exceeding 10*l.* or double the price at which the copies, engravings, imitations or altered works are sold or offered for sale. The person aggrieved may be the person buying the work or the artist, and the act does not assist in determining who is the proper person to sue, or whether both can sue for penalties. The penalties and forfeitures under this section may be enforced by action or before the justices.

## CHAPTER XIV.

## COLONIAL COPYRIGHT.

## THE COLONIES.

THE colonies are included in 5 & 6 Vict. c. 45, and consequently under that act no English books in which there was a copyright could be imported into the colonies. However, by 10 & 11 Vict. c. 95, it was enacted, that where the local authorities in any colony had provided protection for English copyright works, the prohibition against introducing works into that colony might be suspended by an order in council, as far as foreign reprints are concerned. Accordingly, in the case of Canada, and almost all the important colonies except Australia, the local legislature imposed a duty—generally of 20 per cent.—on the price of pirated works imported into the colony, and thereupon the prohibition was removed by order in council. A return was obtained by Mr. Headlam in August, 1857, showing into what colonies pirated works may be imported, and the nature of the provision made for the authors.

The duty on importation is to be paid to the author, but in fact the authors never receive anything, and the protection afforded them is a nullity. Pirated works may be obtained as easily and as cheaply in Canada as in the United States. It can scarcely have been the intention of the legislature that this should be the result, and that English authors should

in fact reap no advantage from the copies of their works which are sold in the colonies.

However this may be, the practical effect is as we have stated, and it can only be by the action of the legislature that the existing state of things as regards the colonies can be remedied.

Though reprints of English works may be introduced into the colonies to which the orders in council apply, authors have still a remedy for the offence of printing the works in any part of the British dominions. Thus, although a book may be reprinted in the United States and imported into Canada, the author would be entitled to an action against any person reprinting it in Canada.

The colonies included in the return of August, 1857, are New Brunswick, Nova Scotia, Prince Edward Island, Barbados, Bermuda, Bahamas, Newfoundland, St. Christopher, Antigua, St. Lucia, Canada, British Guiana, St. Vincent, Mauritius, Grenada, Jamaica, Cape of Good Hope, Nevis, Natal. There has been no return to the House of Commons since the return obtained by Mr. Headlam; but it appears from a search through the Orders in Council, that no colony has adopted the act of 10 & 11 Vict. c. 95, since that return. All the colonies, therefore, except those mentioned above, are still in the same position as the United Kingdom with reference to literary copyright.



## CHAPTER XV.

## INTERNATIONAL COPYRIGHT.

THE subject of international copyright is regulated by 7 Vict. c. 12, and 15 Vict. c. 12, which provide, (to state their effect in very general terms,) that her Majesty, by order in council, may give works of literature and art, published in any foreign country, the same protection here in England as is given there to English works of a similar kind.\* The case of *Jeffreys v. Boosey*, 4 H. L. 815, decided that the work of a foreigner, which is published for the first time in England, is not protected, unless the foreigner is resident in England at the time of publication here. In pursuance of the international copyright act a convention was entered into with France, on the 3rd November, 1851. The convention provides, that the authors of works of literature and art published in England shall have the same protection in France as French authors have there, and *vice versa*. Works of literature and art include publications of books, of dramatic works, of musical compositions, of drawing, of painting, of sculpture, of engraving, of lithography, and of any works whatsoever of literature and of the fine arts. In order to obtain protection in France for a book, map, print or musical publication published in England, it is necessary to register it at the Bureau de le Librairie of the ministry of the interior at Paris,

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\* The act 7 Vict. c. 12, is incorporated in 25 & 26 Vict. c. 68, the act for the better protection of paintings, drawings and photographs.

within three months after the first publication in England. As to works published in parts, they must be registered within three months after the publication of the last part; but, in order to preserve the right of translation, each part must be registered within three months after its publication. A copy of the work must also be deposited, within the same time as registration is to be made, at the Imperial Library at Paris. The charge for registration is one franc twenty-five centimes,—equal to a shilling. A certified copy of the entry may be obtained for five shillings or six francs twenty-five centimes, and is evidence of the exclusive right of republication in France until the contrary is proved.

Other articles, besides books, maps, prints and musical compositions, must be registered in France in the same way as similar articles of native production are required to be registered there.

The latter branch of the clause, as to works published in parts, refers to a publication which is to be completed in a specified number of parts, and not to one which is to be continued for an indefinite period, and therefore not to a newspaper, which must be registered under the first branch of the clause. It seems that the first publication is the publication of the first number after the introduction of the privilege by the convention. The public cannot be bound if there is any neglect to register caused by the persons employed at Stationers' Hall. (*Cassell v. Stiff*, 2 K. & J. 279.)

According to the law of France the work of a foreigner is protected though published first abroad. An infringement of copyright is there a criminal offence, and may be prosecuted accordingly, and the

fine imposed is given to the proprietor of the copyright by way of indemnity. It is, however, of course, impossible, within the limits of this treatise, to give any detailed account of the French law of copyright.

To return to the subject of the treaty with France, it also extends to protect translations, but not to give a first translator the exclusive right of translating a work. If an English author wishes to reserve to himself the exclusive right of translating his works in France, he may do so for five years from the date of the first publication of the translation authorized by him; but in order to obtain the right he must conform to the following provisions:—

He must notify in the title page of the work that he reserves the right of translating it. The original work must be registered and deposited in France within three months after publication in England. (This is necessary, as we have said before, in order to obtain protection in any case in France for an English work.) A part of the authorized translation must appear within a year from the time of the registration and deposit of the original, and the whole within three years from the time of registration and deposit. The authorized translation must appear either in England or France, and must be registered and deposited in France in the same way and within the same time as an original work.

As to works published in parts, the author need not notify his intention to reserve the right of translation, except in the first part; but the exclusive right of translating each part extends only to five years after the publication of the translation of that part; and each part must be registered and deposited in France

within three months after its first publication in England. Dramatic works and musical compositions are protected in France to the same extent as in England. The translation of a dramatic work must, however, appear within three months after registration and deposit of the original.

Fair imitations or adaptations of dramatic works are not precluded, but merely piratical translations. As to newspapers and periodicals, political articles may be republished or translated in France without any restriction.

In order to protect articles of any other kind, the authors must notify in a conspicuous manner, in the journal or periodical in which they appear, that the republication is forbidden.

Pirated copies, whether printed in France or any other country, may be seized and destroyed, and the same proceedings taken in France as if a French copyright.

Of course it will be understood, that, in every case in which we have spoken of English works pirated in France, the observations apply to French works pirated in England; and we have spoken of English works only to avoid confusion.

To obtain the benefit of international copyright, the proprietor of a foreign print must comply with the provisions of 8 Geo. 2, c. 13, and the proprietor's name must be printed on it. (*Avanzo v. Mudie*, 10 Ex. 203.) This was the case of a French print, and was decided on the wording of section 4 of 7 Vict. c. 12.

The convention between her Majesty and the King of Prussia is dated 13th May, 1846. It gives the same protection to works of literature and art in

Prussia which they have in England, and *vice versa*. English works must be registered in the catalogue to be kept for that purpose at the office of the Prussian minister for ecclesiastical, educational and medical affairs. A copy of the best edition of the work must be delivered gratuitously at the same place. The fee for registration is ten silber groschens,—equal to a shilling. Musical and dramatic compositions are also protected in the same way. Translations are provided for by an additional convention dated 14th June, 1855. The provisions as to translations are similar to those in the French treaty. It was provided by the convention of 13th May, 1846, that any of the states belonging to the Zollverein should have the right of acceding to that convention; and accordingly the following states took advantage of the reservation and acceded to the convention :—Saxony on the 24th August, 1846; Brunswick, 30th March, 1847; the states forming the Thuringian Union, namely, Saxe-Weimar-Eisenach, Saxe-Altenbourg, Saxe-Cobourg-Gotha, Saxe-Meiningen, Schwarzbourg-Rudolstadt, Schwarzbourg-Sondershausen, Reuss-Greiz, Reuss-Lobenstein-Ebersdorf and Reuss-Schleitz, on the 1st July, 1847; Anhalt-Dessau and Anhalt-Bernbourg, 8th February, 1853; Grand Duke of Hesse, 19th November, 1861. All these states joined in the additional convention, as to translations, of 14th June, 1855. A book which is protected in Prussia is protected in all these states, and no registration or deposit is necessary except at Berlin.

A convention was concluded with Hanover on 4th August, 1847. It does not apply to translations. An English work must be registered in the catalogue to

be kept for that purpose at the office of the Hanoverian minister of the interior. The fee is one shilling. A copy of the best edition of the work must also be deposited at the same place. On 28th December, 1847, the Duke of Oldenburgh acceded to the convention with Hanover. The work must be registered at the grand ducal department of state and cabinet at Oldenburgh, and a copy of the best edition deposited.

The convention with Hamburgh is dated 16th August, 1853. The work must be registered and a copy of the best edition deposited at the public library at Hamburgh. The fee for registration is one shilling. The convention applies to translations; and the provisions are in substance the same as those of the French treaty. The same may be said of the convention with Belgium of 12th August, 1854, and with Spain of 7th July, 1857. In the former country the work must be registered at the office of the minister of the interior at Brussels, and a copy of the best edition deposited at the royal library at Brussels. In the case of Spain, the work must be registered at the ministry of public works at Madrid, and a copy of the best edition deposited at the national library there. The fee for registration is one franc twenty-five centimes in Belgium and five rials vellon in Spain,—each sum being equivalent to one shilling.

Information as to the duration of copyright in foreign countries is interesting to enable us to compare the law of other countries with our own, and is also of practical importance in the case of those countries with which there are treaties establishing international copyright.

We therefore think it right to place the following short particulars before our readers :—

In France, the duration of copyright is for the life of the author and the life of his widow, and twenty years after the death of the survivor of husband and wife. In the United States copyright is the same as in England. In Belgium it lasts for life and twenty years after death. In Holland the same time. In Prussia, for the life of the author and thirty years after his death. In Russia, twenty-five years after the author's death. In Denmark, and Norway, and Sweden, copyright is perpetual, as it is also said to be in Spain. In all the states of the Germanic Confederation and in Austria, it lasts for ten years at the least from publication; but there are very many cases in which this time is extended to a period, varying in almost every such state, into which it is not within the scope of this work to enter.

## APPENDIX.

### PART I.—STATUTES.

8 GEO. 2, c. 13.

*An Act for the Encouragement of the Arts of designing, engraving, and etching historical and other Prints, by vesting the Properties thereof in the Inventors and Engravers during the Time therein mentioned.*

WHEREAS divers persons have, by their own genius, industry, pains, and expense, invented and engraved, or worked in mezzotinto, or chiaro oscuro, sets of historical and other prints, in hopes to have reaped the sole benefit of their labours: and whereas print sellers and other persons have of late, without the consent of the inventors, designers, and proprietors of such prints, frequently taken the liberty of copying, engraving and publishing, or causing to be copied, engraved and published, base copies of such works, designs, and prints, to the very great prejudice and detriment of the inventors, designers, and proprietors thereof: for remedy thereof, and for preventing such practices for the future, may it please your Majesty that it may be enacted; and be it enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that from and after the twenty-fourth day of June which shall be in the year of our Lord one thousand seven hundred and thirty-five every person who shall invent and design, engrave, etch, or work in mezzotinto or chiaro oscuro, or from his own works and invention shall cause to be designed and engraved, etched, or worked, in mezzotinto or chiaro oscuro, any historical or other print or prints, shall have the sole right and liberty of printing and reprinting the

After 24th June, 1735, the property of historical and other prints vested in the inventor for 14 years.



Proprietor's  
name to be  
affixed to  
each print.

Penalty on  
printsellers  
or others  
pirating the  
same.

same for the term of fourteen years, to commence from the day of the first publishing thereof, which shall be truly engraved with the name of the proprietor on each plate, and printed on every such print or prints: and that if any printseller or other person whatsoever, from and after the said twenty-fourth day of June one thousand seven hundred and thirty-five, within the time limited by this act, shall engrave, etch, or work as aforesaid, or in any other manner copy and sell, or cause to be engraved, etched, or copied and sold, in the whole or in part, by varying, adding to, or diminishing from the main design, or shall print, reprint, or import for sale, or cause to be printed, reprinted, or imported for sale, any such print or prints, or any parts thereof, without the consent of the proprietor or proprietors thereof first had and obtained in writing signed by him or them respectively in the presence of two or more credible witnesses, or, knowing the same to be so printed or reprinted without the consent of the proprietor or proprietors, shall publish, sell, or expose to sale, or otherwise or in any other manner dispose of, or cause to be published, sold, or exposed to sale, or otherwise or in any other manner disposed of, any such print or prints, without such consent first had and obtained as aforesaid, then such offender or offenders shall forfeit the plate or plates on which such print or prints are or shall be copied, and all and every sheet or sheets (being part of or whereon such print or prints are or shall be so copied or printed), to the proprietor or proprietors of such original print or prints, who shall forthwith destroy and damask the same, and further, that every such offender or offenders shall forfeit five shillings for every print which shall be found in his, her, or their custody, either printed or published, and exposed to sale or otherwise disposed of, contrary to the true intent and meaning of this act, the one moiety thereof to the King's most excellent majesty, his heirs and successors, and the other moiety thereof to any person or persons that shall sue for the same, to be recovered in any of his majesty's courts of record at Westminster, by action of debt, bill, plaint, or information, in which no wager of law, essoin, privilege, or protection, or more than one imparlance, shall be allowed.

Not to ex-  
tend to pur-  
chasers of

2. Provided nevertheless, that it shall and may be lawful for any person or persons who shall hereafter purchase any plate or plates for printing from the original

proprietors thereof to print and reprint from the said plates without incurring any of the penalties in this act mentioned. plates from the original proprietors.

3. And be it further enacted by the authority aforesaid, that if any action or suit shall be commenced or brought against any person or persons whatsoever for doing or causing to be done anything in pursuance of this act, the same shall be brought within the space of three months after so doing; and the defendant and defendants in such action or suit shall or may plead the general issue, and give the special matter in evidence; and if upon such action or suit a verdict shall be given for the defendant or defendants, or if the plaintiff or plaintiffs become nonsuited, or discontinue his, her, or their action or actions, then the defendant or defendants shall have and recover full costs, for the recovery whereof he shall have the same remedy as any other defendant or defendants in any other case hath or have by law. Limitation of actions for anything done in pursuance of act.  
General issue.

4. Provided always, and be it further enacted by the authority aforesaid, that if any action or suit shall be commenced or brought against any person or persons for any offence committed against this act, the same shall be brought within the space of three months after the discovery of every such offence, and not afterwards, anything in this act contained to the contrary notwithstanding. Limitation of actions for offences against this act.

5. Clause relating to J. Pine.

6. And be it further enacted by the authority aforesaid, Public Act. that this act shall be deemed, adjudged, and taken to be a public act, and be judicially taken notice of as such by all judges, justices, and other persons whatsoever, without specially pleading the same.

## 7 GEO. 3, C. 38.

*An Act to amend and render more effectual an Act made in the Eighth Year of the Reign of King George the Second, for encouragement of the Arts of Designing, Engraving, and Etching historical and other Prints; and for vesting in, and securing to, Jane Hogarth, Widow, the Property in certain Prints.*

Original inventors, &c. of prints, &c.

WHEREAS an act of parliament passed in the eighth year of the reign of his late Majesty King George the Second, intituled, "An Act for the Encouragement of the Arts of Designing, Engraving, and Etching, historical and other Prints by vesting the Properties thereof in the Inventors and Engravers, during the time therein mentioned," has been found ineffectual for the purposes thereby intended: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons in this present parliament assembled, and by the authority of the same, that from and after the first day of January one thousand seven hundred and sixty-seven, all and every person and persons who shall invent or design, engrave, etch, or work in mezzotinto or chiaro oscuro, or from his own work, design, or invention, shall cause or procure to be designed, engraved, etched, or worked in mezzotinto or chiaro oscuro, any historical print or prints, or any print or prints of any portrait, conversation, landscape, or architecture, map, chart, or plan, or any other print or prints whatsoever, shall have and are hereby declared to have the benefit and protection of the said act and this act under the restrictions and limitations hereinafter mentioned.

Entitled to the benefit of recited and present act, &c.

2. And be it further enacted by the authority aforesaid, that from and after the said first day of January one thousand seven hundred and sixty-seven, all and every person and persons who shall engrave, etch, or work in mezzotinto or chiaro oscuro, or cause to be engraved, etched, or worked, any print taken from any picture, drawing, model, or sculpture, either ancient or

modern, shall have and are hereby declared to have the benefit and protection of the said act, and this act, for the term hereinafter mentioned in like manner as if such print had been graven or drawn from the original design of such graver, etcher, or draughtsman; and if any person shall engrave, print, and publish, or import for sale any copy of any such print contrary to the true intent and meaning of this and the said former act, every such person shall be liable to the penalties contained in the said act, to be recovered as therein and hereinafter mentioned.

Clauses 3 and 4 relate to works of Hogarth.

5. And be it further enacted by the authority aforesaid, that all and every the penalties and penalty inflicted by the said act, and extended, and meant to be extended, to the several cases comprised in this act, shall and may be sued for and recovered in like manner, and under the like restrictions and limitations as in and by the said act is declared and appointed, and the plaintiff or common informer in every such action (in case such plaintiff or common informer shall recover any of the penalties incurred by this or the said former act) shall recover the same, together with his full costs of suit.

6. Provided also, that the party prosecuting shall commence his prosecution within the space of six calendar months after the offence committed.

7. And be it further enacted by the authority aforesaid, that the sole right and liberty of printing and reprinting intended to be secured and protected by the said former act, and this act, shall be extended, continued, and be vested in the respective proprietors for the space of twenty-eight years, to commence from the day of the first publishing of any of the works respectively hereinbefore and in the said former act mentioned.

The right  
vested in the  
proprietors  
for 28 years.

8. And be it further enacted by the authority aforesaid, that if any action or suit shall be commenced or brought against any person or persons whatsoever, for doing, or causing to be done, anything in pursuance of this act, the same shall be brought within the space of six calendar months after the fact committed; and the defendant or defendants in any such action or suit shall or may plead the general issue and give the special matter in evidence, and if upon such action or suit a verdict shall be given for the defendant or defendants, or if the plaintiff or plaintiffs become nonsuited, or discontinue

Limitation of  
actions.

General  
issue.

Full costs.

his, her, or their action, or actions, then the defendant or defendants shall have and recover full costs; for the recovery whereof he shall have the same remedy as any other defendant or defendants, in any other case, hath or have by law.

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17 GEO. 3, c. 57.

*An Act for more effectually securing the Property of Prints to Inventors and Engravers by enabling them to sue for and recover Penalties in certain Cases.*

Recital of  
acts 8 Geo.  
2, and 7 Geo.  
3.

WHEREAS an act of parliament passed in the eighth year of the reign of his late Majesty King George the Second, intituled "An Act for the encouragement of the Arts of designing, engraving, and etching Historical and other Prints, by vesting the Properties thereof in the Inventors and Engravers, during the Time therein mentioned:" And whereas by an act of parliament passed in the seventh year of the reign of his present Majesty, for amending and rendering more effectual the aforesaid act, and for other purposes therein mentioned, it was (among other things) enacted, that from and after the first day of January, one thousand seven hundred and sixty-seven, all and every person or persons who should engrave, etch, or work in mezzotinto or chiaro oscuro, or cause to be engraved, etched or worked, any print taken from any picture, drawing, model, or sculpture, either ancient or modern, should have, and were thereby declared to have the benefit and protection of the said former act and that act, for the term thereafter mentioned, in like manner as if such print had been graved or drawn from the original design of such graver, etcher, or draughtsman: And whereas the said acts have not effectually answered the purposes for which they were intended, and it is necessary, for the encouragement of artists, and for securing to them the property of and in their works, and for the advancement and improvement of the aforesaid arts, that such further provisions should be made as are hereinafter mentioned and contained: may it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and

with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled and by the authority of the same, that from and after the twenty-fourth day of June, one thousand seven hundred and seventy-seven, if any engraver, etcher, printseller, or other person, shall, within the time limited by the aforesaid acts, or either of them, engrave, etch, or work, or cause or procure to be engraved, etched, or worked, in mezzotinto or chiaro oscuro, or otherwise, or in any other manner copy in the whole or in part, by varying, adding to, or diminishing from the main design, or shall print, reprint, or import for sale, or cause or procure to be printed, reprinted, or imported for sale, or shall publish, sell, or otherwise dispose of, or cause or procure to be published, sold, or otherwise disposed of, any copy or copies of any historical print or prints, or any print or prints of any portrait, conversation, landscape, or architecture, map, chart, or plan, or any other print or prints whatsoever, which hath or have been, or shall be engraved, etched, drawn, or designed, in any part of Great Britain, without the express consent of the proprietor or proprietors thereof first had and obtained in writing, signed by him, her, or them respectively, with his, her, or their own hand or hands, in the presence of and attested by two or more credible witnesses, then every such proprietor or proprietors shall and may, by and in a special action upon the case, to be brought against the person or persons so offending, recover such damages as a jury on the trial of such action, or on the execution of a writ of inquiry thereon, shall give or assess, together with double costs of suit.

After June 24, 1777, if any engraver, &c. shall, within the time limited by the aforesaid acts, engrave or etch, &c. any print, without the consent of the proprietor, he shall be liable to damages and double costs.

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38 GEO. 3, c. 71.

*An Act for encouraging the Art of making new Models and Casts of Busts, and other Things therein mentioned.* [21st June, 1798.]

WHEREAS divers persons have, by their own genius, Preamble. industry, pains, and expense, improved and brought the art of making new models and casts of busts, and of statues of human figures, and of animals, to great per-

The sole right and property of making models or casts shall be vested in the original proprietor.

fection, in hopes to have reaped the sole benefit of their labours; but that divers persons have (without the consent of the proprietors thereof) copied and made moulds from the said models and casts, and sold base copies and casts of such new models and casts, to the great prejudice and detriment of the original proprietors, and to the discouragement of the art of making such new models and casts as aforesaid: for remedy whereof, and for preventing such practices for the future, may it please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that, from and after the passing of this act, every person who shall make or cause to be made any new model, or copy or cast made from such new model, of any bust, or any part of the human figure, or any statue of the human figure, or the head of any animal, or any part of any animal, or the statue of any animal; or shall make or cause to be made any new model, copy, or cast from such new model, in alto or basso relievo, or any work in which the representation of any human figure or figures, or the representation of any animal or animals shall be introduced, or shall make or cause to be made any new cast from nature of any part or parts of the human figure, or of any part or parts of any animal, shall have the sole right and property in every such new model, copy, or cast, and also in every such new model, copy, or cast in alto or basso relievo, or any work as aforesaid, and also in every such new cast from nature as aforesaid, for and during the term of fourteen years from the time of first publishing the same: Provided always, that every person who shall make or cause to be made any such new model, copy, or cast, or any such new model, copy, or cast in alto or basso relievo, or any work as aforesaid, or any new cast from nature as aforesaid, shall cause his or her name to be put thereon, with the date of the publication, before the same shall be published and exposed to sale.

Persons making copies of any model or cast, without the consent of the proprietor, may be prosecuted:

2. And be it further enacted, that if any person shall, within the said term of fourteen years, make or cause to be made any copy or cast of any such new model, copy, or cast, or any such model, copy, or cast in alto or basso relievo, or any such works as aforesaid, or any such new cast from nature as aforesaid, either by adding to or diminishing from any such new model, copy, or cast, or

adding to or diminishing from any such new model, copy, or cast in alto or basso relievo, or any such work as aforesaid, or adding to or diminishing from any such new cast from nature, or shall cause or procure the same to be done, or shall import any copy or cast of such new model, copy, or cast, or copy or cast of such new model, copy, or cast in alto or basso relievo, or any such work as aforesaid, or any copy or cast of any such new cast from nature as aforesaid, for sale, or shall sell or otherwise dispose of, or cause or procure to be sold or exposed to sale, or otherwise disposed of, any copy or cast of any such new model, copy, or cast, or any copy or cast of such new model, copy, or cast in alto or basso relievo, or any such work as aforesaid, or any copy or cast of any such new cast from nature as aforesaid, without the express consent of the proprietor or proprietors thereof first had and obtained, in writing signed by him, her, or them respectively, with his, her, or their hand or hands, in the presence of and attested by two or more credible witnesses, then and in all or any of the cases aforesaid, every proprietor or proprietors of any such original model, copy, or cast, and every proprietor or proprietors of any such original model, or copy or cast in alto or basso relievo, or any such work as aforesaid, or the proprietor or proprietors of any such new cast from nature as aforesaid respectively, shall and may, by and in a special action upon the case, to be brought against the person or persons so offending, recover such damages as a jury on the trial of such action, or on the execution of a writ of inquiry thereon, shall give or assess, together with full costs of suit.

3. Provided nevertheless, that no person who shall hereafter purchase the right, either in any such model, copy, or cast, or in any such model, copy, or cast in alto or basso relievo, or any such work as aforesaid, or any such new cast from nature, of the original proprietor or proprietors thereof, shall be subject to any action for vending or selling any cast or copy from the same; any thing contained in this act to the contrary hereof notwithstanding.

Except such persons who shall purchase the same of the original proprietor.

4. Provided also, that all actions to be brought as aforesaid, against any person or persons for any offence committed against this act, shall be commenced within six calendar months next after the discovery of every such offence, and not afterwards.

Limitation of actions.



## 54 GEO. 3, c. 56.

*An Act to amend and render more effectual an Act of his present Majesty, for encouraging the Art of making new Models and Casts of Busts, and other Things therein mentioned; and for giving further Encouragement to such Arts.*

[18th May, 1814.]

38 Geo. 3,  
c. 71.

The sole  
right and  
property of  
all new and  
original  
sculpture,  
models,  
copies and  
casts vested  
in the pro-  
prietors, for  
14 years.

WHEREAS by an act, passed in the thirty-eighth year of the reign of his present majesty, intituled "An Act for encouraging the Art of making new Models and Casts of Busts, and other Things therein mentioned;" the sole right and property thereof were vested in the original proprietors, for a time therein specified: and whereas the provisions of the said act having been found ineffectual for the purposes thereby intended, it is expedient to amend the same, and to make other provisions and regulations for the encouragement of artists, and to secure to them the profits of and in their works, and for the advancement of the said arts: may it therefore please your majesty that it may be enacted; and be it enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this act, every person or persons who shall make or cause to be made any new and original sculpture, or model, or copy, or cast of the human figure or human figures, or of any bust or busts, or of any part or parts of the human figure, clothed in drapery or otherwise, or of any animal or animals, or of any part or parts of any animal combined with the human figure or otherwise, or of any subject being matter of invention in sculpture, or of any alto or basso-relievo representing any of the matters or things hereinbefore mentioned, or any cast from nature of the human figure, or of any part or parts of the human figure, or of any cast from nature of any animal, or of any part or parts of any animal, or of any such subject containing or representing any of the matters and things hereinbefore mentioned, whether separate or com-

bined, shall have the sole right and property of all and in every such new and original sculpture, model, copy and cast of the human figure or human figures, and of all and in every such bust or busts, and of all and in every such part or parts of the human figure, clothed in drapery or otherwise, and of all and in every such new and original sculpture, model, copy and cast, representing any animal or animals, and of all and in every such work representing any part or parts of any animal combined with the human figure or otherwise, and of all and in every such new and original sculpture, model, copy and cast of any subject, being matter of invention in sculpture, and of all and in every such new and original sculpture, model, copy and cast in alto or basso-relievo, representing any of the matters or things hereinbefore mentioned, and of every such cast from nature, for the term of fourteen years from first putting forth or publishing the same; provided, in all and in every case, the proprietor or proprietors do cause his, her or their name or names, with the date, to be put on all and every such new and original sculpture, model, copy or cast, and on every such cast from nature, before the same shall be put forth or published.

2. And be it further enacted, that the sole right and property of all works, which have been put forth or published under the protection of the said recited act, shall be extended, continued to and vested in the respective proprietors thereof, for the term of fourteen years, to commence from the date when such last-mentioned works respectively were put forth or published.

Works published under the recited act, vested in the proprietors for 14 years.

3. And be it further enacted, that if any person or persons shall, within such term of fourteen years, make or import, or cause to be made or imported, or exposed to sale, or otherwise disposed of, any pirated copy or pirated cast of any such new and original sculpture, or model or copy, or cast of the human figure or human figures, or of any such bust or busts, or of any such part or parts of the human figure clothed in drapery or otherwise, or of any such work of any animal or animals, or of any such part or parts of any animal or animals combined with the human figure or otherwise, or of any such subject being matter of invention in sculpture, or of any such alto or basso-relievo representing any of the matters or things hereinbefore mentioned, or of any such cast from nature as aforesaid, whether such pirated copy or

Persons putting forth pirated copies or pirated casts may be prosecuted.

Damages  
and double  
costs.

Purchasers  
of copyright  
secured in  
the same.

Limitation of  
actions.

An addi-  
tional term  
of 14 years,  
in case the  
maker of the  
original  
sculpture,  
&c. shall be  
living.

pirated cast be produced by moulding or copying from, or imitating in any way, any of the matters or things put forth or published under the protection of this act, or of any works which have been put forth or published under the protection of the said recited act, the right and property whereof is and are secured, extended and protected by this act, in any of the cases as aforesaid, to the detriment, damage or loss of the original or respective proprietor or proprietors of any such works so pirated; then and in all such cases the said proprietor or proprietors, or their assignee or assignees, shall and may, by and in a special action upon the case to be brought against the person or persons so offending, receive such damages as a jury on a trial of such action shall give or assess, together with double costs of suit.

4. Provided nevertheless, that no person or persons who shall or may hereafter purchase the right or property of any new and original sculpture or model, or copy or cast, or of any cast from nature, or of any of the matters and things published under or protected by virtue of this act, of the proprietor or proprietors, expressed in a deed in writing signed by him, her or them respectively, with his, her or their own hand or hands, in the presence of and attested by two or more credible witnesses, shall be subject to any action for copying or casting, or vending the same, anything contained in this act to the contrary notwithstanding.

5. Provided always, and be it further enacted, that all actions to be brought as aforesaid, against any person or persons for any offence committed against this act, shall be commenced within six calendar months next after the discovery of every such offence, and not afterwards.

6. Provided always, and be it further enacted, that from and immediately after the expiration of the said term of fourteen years, the sole right of making and disposing of such new and original sculpture, or model, or copy, or cast of any of the matters or things hereinbefore mentioned, shall return to the person or persons who originally made or caused to be made the same, if he or they shall be then living, for the further term of fourteen years, excepting in the case or cases where such person or persons shall by sale or otherwise have divested himself, herself or themselves, of such right of making or disposing of any new and original sculpture, or model, or copy, or cast of any of the matters or things hereinbefore mentioned, previous to the passing of this act.

## 3 &amp; 4 WILL. 4, c. 15.

*An Act to amend the Laws relating to Dramatic  
Literary Property.* [10th June, 1833.]

WHEREAS by an act passed in the fifth-fourth year of the reign of his late majesty King George the Third, intituled "An Act to amend the several Acts for the Encouragement of Learning, by securing the Copies and Copyright of printed Books to the Authors of such Books, or their Assigns," it was amongst other things provided and enacted, that from and after the passing of the said act the author of any book or books composed, and not printed or published, or which should thereafter be composed and printed and published, and his assignee or assigns, should have the sole liberty of printing and re-printing such book or books for the full term of twenty-eight years, to commence from the day of first publishing the same, and also, if the author should be living at the end of that period, for the residue of his natural life: and whereas it is expedient to extend the provisions of the said act: be it therefore enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this act the author of any tragedy, comedy, play, opera, farce, or any other dramatic piece or entertainment, composed, and not printed and published by the author thereof or his assignee, or which hereafter shall be composed, and not printed or published by the author thereof or his assignee, or the assignee of such author, shall have as his own property the sole liberty of representing, or causing to be represented, at any place or places of dramatic entertainment whatsoever, in any part of the United Kingdom of Great Britain and Ireland, in the Isles of Man, Jersey and Guernsey, or in any part of the British dominions, any such production as aforesaid, not printed and published by the author thereof or his assignee, and shall be deemed and taken to be the proprietor thereof; and that the author of any such production, printed and published within ten years before

54 Geo. 3,  
c. 156.

The author  
of any dra-  
matic piece  
shall have  
as his pro-  
perty the  
sole liberty  
of represent-  
ing it or  
causing it to  
be repre-  
sented at any  
place of  
dramatic  
entertain-  
ment.

Proviso as to cases where previous to the passing of this act, a consent has been given.

Penalty on persons performing pieces contrary to this act.

the passing of this act by the author thereof or his assignee, or which shall hereafter be so printed and published, or the assignee of such author, shall, from the time of passing this act, or from the time of such publication respectively, until the end of twenty-eight years from the day of such first publication of the same, and also, if the author or authors, or the survivor of the authors, shall be living at the end of that period, during the residue of his natural life, have as his own property the sole liberty of representing, or causing to be represented, the same at any such place of dramatic entertainment as aforesaid, and shall be deemed and taken to be the proprietor thereof: provided nevertheless, that nothing in this act contained shall prejudice, alter, or affect the right or authority of any person to represent or cause to be represented, at any place or places of dramatic entertainment whatsoever, any such production as aforesaid, in all cases in which the author thereof or his assignee shall, previously to the passing of this act, have given his consent to or authorized such representation, but that such sole liberty of the author or his assignee shall be subject to such right or authority.

2. And be it further enacted, that if any person shall, during the continuance of such sole liberty as aforesaid, contrary to the intent of this act, or right of the author or his assignee, represent, or cause to be represented, without the consent in writing of the author or other proprietor first had and obtained, at any place of dramatic entertainment within the limits aforesaid, any such production as aforesaid, or any part thereof, every such offender shall be liable for each and every such representation to the payment of an amount not less than forty shillings, or to the full amount of the benefit or advantage arising from such representation, or the injury or loss sustained by the plaintiff therefrom, whichever shall be the greater damages, to the author or other proprietor of such production so represented contrary to the true intent and meaning of this act, to be recovered, together with double costs of suit, by such author or other proprietors, in any court having jurisdiction in such cases in that part of the said United Kingdom or of the British dominions in which the offence shall be committed; and in every such proceeding where the sole liberty of such author or his assignee as aforesaid shall be subject to such right or authority as aforesaid, it shall be sufficient

for the plaintiff to state that he has such sole liberty, without stating the same to be subject to such right or authority, or otherwise mentioning the same.

3. Provided nevertheless, and be it further enacted, Limitation of actions. that all actions or proceedings for any offence or injury that shall be committed against this act shall be brought, sued and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of no effect.

4. And be it further enacted, that whenever authors, Explanation of words. persons, offenders, or others are spoken of in this act in the singular number or in the masculine gender, the same shall extend to any number of persons and to either sex.

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5 & 6 WILL. 4, c. 65.

*An Act for preventing the Publication of Lectures without Consent.* [9th September, 1835.]

WHEREAS printers, publishers, and other persons have frequently taken the liberty of printing and publishing lectures delivered upon divers subjects, without the consent of the authors of such lectures, or the persons delivering the same in public, to the great detriment of such authors and lecturers: be it enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that from and after the first day of September one thousand eight hundred and thirty-five the author of any lecture or lectures, or the person to whom he hath sold or otherwise conveyed the copy thereof, in order to deliver the same in any school, seminary, institution, or other place, or for any other purpose, shall have the sole right and liberty of printing and publishing such lecture or lectures; and that if any person shall, by taking down the same in short hand or otherwise in writing, or in any other way, obtain or make a copy of such lecture or lectures, and shall print or lithograph or otherwise copy and publish the same, or cause the same to be printed, lithographed, or otherwise copied and published, without leave of the author thereof, or of the person to whom the

Authors of lectures, or their assigns, to have the sole right of publishing them.

Penalty on other persons publishing, &c. lectures without leave.

author thereof hath sold or otherwise conveyed the same, and every person who, knowing the same to have been printed or copied and published without such consent, shall sell, publish, or expose to sale, or cause to be sold, published, or exposed to sale, any such lecture or lectures, shall forfeit such printed or otherwise copied lecture or lectures, or parts thereof, together with one penny for every sheet thereof which shall be found in his custody, either printed, lithographed, or copied, or printing, lithographing, or copying, published or exposed to sale, contrary to the true intent and meaning of this act, the one moiety thereof to his majesty, his heirs or successors, and the other moiety thereof to any person who shall sue for the same, to be recovered in any of his majesty's courts of record in Westminster, by action of debt, bill, plaint, or information, in which no wager of law,essoign, privilege, or protection, or more than one imparlance, shall be allowed.

Penalty on printers or publishers of newspapers publishing lectures without leave.

Persons having leave to attend lectures not on that account licensed to publish them.

Act not to prohibit the publishing of lectures after expiration of the copy-right.

8 Ann. c. 19.

2. And be it further enacted, that any printer or publisher of any newspaper who shall, without such leave as aforesaid, print and publish in such newspaper any lecture or lectures, shall be deemed and taken to be a person printing and publishing without leave within the provisions of this act, and liable to the aforesaid forfeitures and penalties in respect of such printing and publishing.

3. And be it further enacted, that no person allowed for certain fee and reward, or otherwise, to attend and be present at any lecture delivered in any place, shall be deemed and taken to be licensed or to have leave to print, copy, and publish such lectures only because of having leave to attend such lecture or lectures.

4. Provided always, that nothing in this act shall extend to prohibit any person from printing, copying, and publishing any lecture or lectures which have or shall have been printed and published with leave of the authors thereof or their assignees, and whereof the time hath or shall have expired within which the sole right to print and publish the same is given by an act passed in the eighth year of the reign of Queen Anne, intituled "An Act for the Encouragement of Learning, by vesting the copies of printed books in the authors or purchasers of such copies during the times therein mentioned," and by another act passed in the fifty-fourth year of the reign of King George the Third, intituled "An Act to amend the several Acts for the Encouragement of Learning, by

securing the Copies and Copyright of printed Books to the Authors of such Books, or their Assigns," or to any lectures which have been printed or published before the passing of this act.

5. Provided further, that nothing in this act shall extend to any lecture or lectures, or the printing, copying, or publishing any lecture or lectures, or parts thereof, of the delivering of which notice in writing shall not have been given to two justices living within five miles from the place where such lecture or lectures shall be delivered two days at the least before delivering the same, or to any lecture or lectures delivered in any university or public school or college, or on any public foundation, or by any individual in virtue of or according to any gift, endowment, or foundation; and that the law relating thereto shall remain the same as if this act had not been passed.

Act not to extend to lectures delivered in unlicensed places, &c.

6 & 7 WILL. 4, c. 59.

*An Act to extend the Protection of Copyright in Prints and Engravings to Ireland.*

[13th August, 1836.]

WHEREAS an act was passed in the seventeenth year of the reign of his late majesty king George the Third, intituled "An Act for more effectually securing the Property of Prints to Inventors and Engravers, by enabling them to sue for and recover Penalties in certain Cases:" and whereas it is desirable to extend the provisions of the said act to Ireland; be it therefore enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this act all the provisions contained in the said recited act of the seventeenth year of the reign of his late majesty king George the Third, and of all the other acts therein recited, shall be and the same are hereby extended to the United Kingdom of Great Britain and Ireland.

17 Geo. 3, c. 57.

Provisions of recited act extended to Ireland.

2. And be it further enacted, that from and after the passing of this act, if any engraver, etcher, printseller, or other person shall, within the time limited by the afore-

Penalty on engraving or publishing any print



without consent of proprietor.

said recited acts, engrave, etch, or publish, or cause to be engraved, etched, or published, any engraving or print of any description whatever, either in whole or in part, which may have been or which shall hereafter be published in any part of Great Britain or Ireland, without the express consent of the proprietor or proprietors thereof first had and obtained in writing, signed by him, her, or them respectively, with his, her, or their own hand or hands, in the presence of and attested by two or more credible witnesses, then every such proprietor shall and may, by and in a separate action upon the case, to be brought against the person so offending in any court of law in Great Britain or Ireland, recover such damages as a jury on the trial of such action or on the execution of a writ of inquiry thereon shall give or assess, together with double costs of suit.

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5 & 6 VICT. C. 45.

*An Act to amend the Law of Copyright.*

[1st July, 1842.]

Repeal of  
former acts;  
8 Anne, c. 19.

41 Geo. 3,  
c. 107.

54 Geo. 3,  
c. 156.

WHEREAS it is expedient to amend the law relating to copyright, and to afford greater encouragement to the production of literary works of lasting benefit to the world: be it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by authority of the same, that from the passing of this act an act passed in the eighth year of the reign of her majesty queen Anne, intituled "An Act for the Encouragement of Learning, by vesting the Copies of Printed Books in the Authors or Purchasers of such Copies during the times therein-mentioned;" and also an act passed in the forty-first year of the reign of his majesty king George the Third, intituled "An Act for the further Encouragement of Learning in the United Kingdom of Great Britain and Ireland, by securing the Copies and Copyright of Printed Books to the Authors of such Books or their Assigns, for the time therein-mentioned;" and also an act passed in the fifty-fourth year of the reign of his majesty king George the Third, intituled "An Act to amend several Acts for the Encour-

agement of Learning, by securing the Copies and Copyright of Printed Books to the Authors of such Books or their Assigns," be and the same are hereby repealed, except so far as the continuance of either of them may be necessary for carrying on or giving effect to any proceedings at law or in equity pending at the time of passing this act, or for enforcing any cause of action or suit, or any right or contract then subsisting.

2. And be it enacted, that in the construction of this act the word "book" shall be construed to mean and include every volume, part or division of a volume, pamphlet, sheet of letter-press, sheet of music, map, chart or plan separately published; that the words "dramatic piece" shall be construed to mean and include every tragedy, comedy, play, opera, farce or other scenic, musical or dramatic entertainment; that the word "copyright" shall be construed to mean the sole and exclusive liberty of printing or otherwise multiplying copies of any subject to which the said word is herein applied; that the words "personal representative" shall be construed to mean and include every executor, administrator and next of kin entitled to administration; that the word "assigns" shall be construed to mean and include every person in whom the interest of an author in copyright shall be vested, whether derived from such author before or after the publication of any book, and whether acquired by sale, gift, bequest or by operation of law or otherwise; that the words "British dominions" shall be construed to mean and include all parts of the United Kingdom of Great Britain and Ireland, the islands of Jersey and Guernsey, all parts of the East and West Indies, and all the colonies, settlements and possessions of the crown which now are or hereafter may be acquired; and that whenever in this act, in describing any person, matter or thing, the word importing the singular number or the masculine gender only is used, the same shall be understood to include and to be applied to several persons as well as one person, and females as well as males, and several matters or things as well as one matter or thing, respectively, unless there shall be something in the subject or context repugnant to such construction.

3. And be it enacted, that the copyright in every book which shall after the passing of this act be published in the lifetime of its author shall endure for the natural life of such author, and for the further term of seven years, hereafter to

Interpreta-  
tion of act.

Endurance  
of term of  
copyright in  
any book  
hereafter to

be published  
in the life-  
time of the  
author;

if published  
after the  
author's  
death.

In cases of  
subsisting  
copyright,  
the term to  
be extended  
except when  
it shall be-  
long to an  
assignee for  
other consid-  
eration than  
natural love  
and affec-  
tion; in  
which case it  
shall cease at  
the expira-  
tion of the  
present term,  
unless its ex-  
tension be  
agreed to  
between the  
proprietor  
and the  
author.

Judicial  
committee of  
the privy  
council may  
license the  
republication  
of books

commencing at the time of his death, and shall be the property of such author and his assigns; provided always, that if the said term of seven years shall expire before the end of forty-two years from the first publication of such book, the copyright shall in that case endure for such period of forty-two years; and that the copyright in every book which shall be published after the death of its author shall endure for the term of forty-two years from the first publication thereof, and shall be the property of the proprietor of the author's manuscript from which such book shall be first published, and his assigns.

4. And whereas it is just to extend the benefits of this act to authors of books published before the passing thereof, and in which copyright still subsists: be it enacted, that the copyright which at the time of passing this act shall subsist in any book theretofore published (except as hereinafter mentioned) shall be extended and endure for the full term provided by this act in cases of books thereafter published, and shall be the property of the person who at the time of passing of this act shall be the proprietor of such copyright: provided always, that in all cases in which such copyright shall belong in whole or in part to a publisher or other person who shall have acquired it for other consideration than that of natural love and affection, such copyright shall not be extended by this act, but shall endure for the term which shall subsist therein at the time of passing of this act, and no longer, unless the author of such book, if he shall be living, or the personal representative of such author, if he shall be dead, and the proprietor of such copyright, shall, before the expiration of such term, consent and agree to accept the benefits of this act in respect of such book, and shall cause a minute of such consent in the form in that behalf given in the schedule to this act annexed to be entered in the book of registry hereinafter directed to be kept, in which case such copyright shall endure for the full term by this act provided in cases of books to be published after the passing of this act, and shall be the property of such person or persons as in such minute shall be expressed.

5. And whereas it is expedient to provide against the suppression of books of importance to the public: be it enacted, that it shall be lawful for the judicial committee of her majesty's privy council, on complaint made to them that the proprietor of the copyright in any book after the

death of its author has refused to republish or to allow the republication of the same, and that by reason of such refusal such book may be withheld from the public, to grant a licence to such complainant to publish such book, in such manner and subject to such conditions as they may think fit, and that it shall be lawful for such complainant to publish such book according to such licence.

which the proprietor refuses to republish after death of the author.

6. And be it enacted, that a printed copy of the whole of every book which shall be published after the passing of this act, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be published, and also of any second or subsequent edition which shall be so published with any additions or alterations, whether the same shall be in letter-press or in the maps, prints or other engravings belonging thereto, and whether the first edition of such book shall have been published before or after the passing of this act, and also of any second or subsequent edition of every book of which the first or some preceding edition shall not have been delivered for the use of the British Museum, bound, sewed or stitched together, and upon the best paper on which the same shall be printed, shall within one calendar month after the day on which any such book shall first be sold, published or offered for sale within the bills of mortality, or within three calendar months if the same shall first be sold, published or offered for sale in any other part of the United Kingdom, or within twelve calendar months after the same shall first be sold, published or offered for sale in any other part of the British dominions, be delivered, on behalf of the publisher thereof, at the British Museum.

Copies of books published after the passing of this act, and of all subsequent editions, to be delivered within certain times at the British Museum.

7. And be it enacted, that every copy of any book which under the provisions of this act ought to be delivered as aforesaid shall be delivered at the British Museum between the hours of ten in the forenoon and four in the afternoon on any day except Sunday, Ash Wednesday, Good Friday and Christmas Day, to one of the officers of the said museum, or to some person authorized by the trustees of the said museum to receive the same, and such officer or other person receiving such copy is hereby required to give a receipt in writing for the same, and such delivery shall to all intents and purposes be deemed to be good and sufficient delivery under the provisions of this act.

Mode of delivering at the British Museum.

A copy of every book to be delivered within a month after demand to the officers of the Stationers Company, for the following libraries: the Bodleian at Oxford, the public library at Cambridge, the Faculty of Advocates at Edinburgh, and that of Trinity College, Dublin.

8. And be it enacted, that a copy of the whole of every book and of any second or subsequent edition of every book containing additions and alterations, together with all maps and prints belonging thereto, which after the passing of this act shall be published, shall on demand thereof in writing, left at the place of abode of the publisher thereof at any time within twelve months next after the publication thereof, under the hand of the officer of the company of stationers who shall from time to time be appointed by the said company for the purposes of this act, or under the hand of any other person thereto authorized by the persons or bodies politic and corporate, proprietors and managers of the libraries following; (videlicet,) the Bodleian Library at Oxford, the Public Library at Cambridge, the Library of the Faculty of Advocates at Edinburgh, the Library of the College of the Holy Undivided Trinity of Queen Elizabeth near Dublin, be delivered, upon the paper of which the largest number of copies of such book or edition shall be printed for sale, in the like condition as the copies prepared for sale by the publisher thereof respectively, within one month after demand made thereof in writing as aforesaid to the said officer of the said Company of Stationers for the time being, which copies the said officers shall and he is hereby required to receive at the hall of the said company, for the use of the library for which such demand shall be made within such twelve months as aforesaid; and the said officer is hereby required to give a receipt in writing for the same, and within one month after any such book shall be so delivered to him as aforesaid to deliver the same for the use of such library.

Publishers may deliver the copies to the libraries instead of at the Stationers' Company.

9. Provided also, and be it enacted, that if any publisher shall be desirous of delivering the copy of such book as shall be demanded on behalf of any of the said libraries at such library, it shall be lawful for him to deliver the same at such library, free of expense, to such librarian or other person authorized to receive the same (who is hereby required in such case to receive and give a receipt in writing for the same), and such delivery shall to all intents and purposes of this act be held as equivalent to a delivery to the said officer of the Stationers' Company.

Penalty for default in delivering copies for

10. And be it enacted, that if any publisher of any such book or of any second or subsequent edition of any such book, shall neglect to deliver the same, pursuant to

this act, he shall for every such default forfeit, besides the use of the the value of such copy of such book or edition which he ought to have delivered, a sum not exceeding five pounds, to be recovered by the librarian or other officer (properly authorized) of the library for the use whereof such copy should have been delivered, in a summary way, on conviction before two justices of the peace for the county or place where the publisher making default shall reside, or by action of debt or other proceeding of the like nature, at the suit of such librarian or other officer, in any court of record in the United Kingdom, in which action, if the plaintiff shall obtain a verdict, he shall recover his costs reasonably incurred, to be taxed as between attorney and client.

11. And be it enacted, that a book of registry, wherein may be registered, as hereinafter enacted, the proprietorship in the copyright of books, and assignments thereof, and in dramatic and musical pieces, whether in manuscript or otherwise, and licences affecting such copyright, shall be kept at the hall of the Stationers' Company, by the officer appointed by the said company for the purposes of this act, and shall at all convenient times be open to the inspection of any person, on payment of one shilling for every entry which shall be searched for or inspected in the said book; and that such officer shall, whenever thereunto reasonably required, give a copy of any entry in such book, certified under his hand, and impressed with the stamp of the said company to be provided by them for that purpose, and which they are hereby required to provide, to any person requiring the same, on payment to him of the sum of five shillings; and such copies so certified and impressed shall be received in evidence in all courts, and in all summary proceedings, and shall be *prima facie* proof of the proprietorship or assignment of copyright or licence as therein expressed, but subject to be rebutted by other evidence, and in the case of dramatic or musical pieces shall be *prima facie* proof of the right of representation or performance, subject to be rebutted as aforesaid.

12. And be it enacted, that if any person shall wilfully make or cause to be made any false entry in the registry book of the Stationers' Company, or shall wilfully produce or cause to be tendered in evidence any paper falsely purporting to be a copy of any entry in the said book,

Book of registry to be kept at Stationers' Hall.

Making a false entry in the book of registry, a misdemeanor.

he shall be guilty of an indictable misdemeanor, and shall be punished accordingly.

Entries of  
copyright  
may be made  
in the book  
of registry.

13. And be it enacted, that after the passing of this act it shall be lawful for the proprietor of copyright in any book heretofore published, or in any book hereafter to be published, to make entry in the registry book of the Stationers' Company of the title of such book, the time of the first publication thereof, the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the copyright of the said book, or of any portion of such copyright, in the form in that behalf given in the schedule to this act annexed, upon payment of the sum of five shillings to the officer of the said company; and that it shall be lawful for every such registered proprietor to assign his interest, or any portion of his interest therein, by making entry in the said book of registry of such assignment, and of the name and place of abode of the assignee thereof, in the form given in that behalf in the said schedule, on payment of the like sum; and such assignment so entered shall be effectual in law to all intents and purposes whatsoever, without being subject to any stamp or duty, and shall be of the same force and effect as if such assignment had been made by deed.

Persons ag-  
grieved by  
any entry in  
the book of  
registry may  
apply to a  
court of law  
in term, or  
judge in va-  
cation, who  
may order  
such entry to  
be varied or  
expunged.

14. And be it enacted, that if any person shall deem himself aggrieved by any entry made under colour of this act in the said book of registry, it shall be lawful for such person to apply by motion to the Court of Queen's Bench, Court of Common Pleas, or Court of Exchequer, in term time, or to apply by summons to any judge of either of such courts in vacation, for an order that such entry may be expunged or varied; and that upon any such application by motion or summons to either of the said courts, or to a judge as aforesaid, such court or judge shall make such order for expunging, varying, or confirming such entry, either with or without costs, as to such court or judge shall seem just; and the officer appointed by the Stationers' Company for the purposes of this act shall, on the production to him of any such order for expunging or varying any such entry, expunge or vary the same according to the requisitions of such order.

Remedy for  
the piracy of

15. And be it enacted, that if any person shall, in any part of the British dominions, after the passing of this

act, print or cause to be printed, either for sale or exportation, any book in which there shall be subsisting copyright, without the consent in writing of the proprietor thereof, or shall import for sale or hire any such book so having been unlawfully printed from parts beyond the sea, or, knowing such book to have been so unlawfully printed or imported, shall sell, publish, or expose to sale or hire, or cause to be sold, published, or exposed to sale or hire, or shall have in his possession, for sale or hire, any such book so unlawfully printed or imported, without such consent as aforesaid, such offender shall be liable to a special action on the case at the suit of the proprietor of such copyright, to be brought in any court of record in that part of the British dominions in which the offence shall be committed: provided always, that in Scotland such offender shall be liable to an action in the court of session in Scotland, which shall and may be brought and prosecuted in the same manner in which any other action of damages to the like amount may be brought and prosecuted there.

books by  
action on  
the case.

16. And be it enacted, that after the passing of this act, in any action brought within the British dominions against any person for printing any such book for sale, hire, or exportation, or for importing, selling, publishing, or exposing to sale or hire, or causing to be imported, sold, published, or exposed to sale or hire, any such book, the defendant, on pleading thereto, shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of such action; and if the nature of his defence be, that the plaintiff in such action was not the author or first publisher of the book in which he shall by such action claim copyright, or is not the proprietor of the copyright therein, or that some other person than the plaintiff was the author or first publisher of such book, or is the proprietor of the copyright therein, then the defendant shall specify in such notice the name of the person who he alleges to have been the author or first publisher of such book, or the proprietor of the copyright therein, together with the title of such book, and the time when and the place where such book was first published, otherwise the defendant in such action shall not at the trial or hearing of such action be allowed to give any evidence that the plaintiff in such action was not the author or first publisher of the book in which he claims such copyright as aforesaid, or that he was not

In actions for  
piracy the  
defendant to  
give notice of  
the objec-  
tions to the  
plaintiff's  
title on which  
he means to  
rely.



the proprietor of the copyright therein ; and at such trial or hearing no other objection shall be allowed to be made on behalf of such defendant than the objections stated in such notice, or that any other person was the author or first publisher of such book, or the proprietor of the copyright therein, than the person specified in such notice, or give in evidence in support of his defence any other book than one substantially corresponding in title, time, and place of publication with the title, time, and place specified in such notice.

No person, except the proprietor, &c. shall import into the British dominions for sale or hire any book first composed, &c. within the United Kingdom, and reprinted elsewhere, under penalty or forfeiture thereof, and also of 10*l*. and double the value.

Books may be seized by officers of customs or excise.

As to the copyright in encyclopaedias, peri-

17. And be it enacted, that after the passing of this act it shall not be lawful for any person, not being the proprietor of the copyright, or some person authorized by him, to import into any part of the United Kingdom, or into any other part of the British dominions, for sale or hire, any printed book first composed or written or printed and published in any part of the said United Kingdom, wherein there shall be copyright, and reprinted in any country or place whatsoever out of the British dominions ; and if any person, not being such proprietor or person authorized as aforesaid, shall import or bring, or cause to be imported or brought, for sale or hire, any such printed book, into any part of the British dominions, contrary to the true intent and meaning of this act, or shall knowingly sell, publish, or expose to sale or let to hire, or have in his possession for sale or hire, any such book, then every such book shall be forfeited, and shall be seized by any officer of customs or excise, and the same shall be destroyed by such officer ; and every person so offending, being duly convicted thereof before two justices of the peace for the county or place in which such book shall be found, shall also for every such offence forfeit the sum of ten pounds, and double the value of every copy of such book which he shall so import or cause to be imported into any part of the British dominions, or shall knowingly sell, publish, or expose to sale or let to hire, or shall cause to be sold, published, or exposed to sale or let to hire, or shall have in his possession for sale or hire, contrary to the true intent and meaning of this act, five pounds to the use of such officer of customs or excise, and the remainder of the penalty to the use of the proprietor of the copyright in such book.

18. And be it enacted, that when any publisher or other person shall, before or at the time of the passing of this act, have projected, conducted, and carried on, or

shall hereafter project, conduct, and carry on, or be the proprietor of any encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, or any book whatsoever, and shall have employed or shall employ any persons to compose the same, or any volumes, parts, essays, articles, or portions thereof, for publication in or as part of the same, and such work, volumes, parts, essays, articles, or portions shall have been or shall hereafter be composed under such employment, on the terms that the copyright therein shall belong to such proprietor, projector, publisher, or conductor, and paid for by such proprietor, projector, publisher, or conductor, the copyright in every such encyclopædia, review, magazine, periodical work, and work published in a series of books or parts, and in every volume, part, essay, article, and portion so composed and paid for, shall be the property of such proprietor, projector, publisher, or other conductor, who shall enjoy the same rights as if he were the actual author thereof, and shall have such term of copyright therein as is given to the authors of books by this act; except only that in the case of essays, articles, or portions forming part of and first published in reviews, magazines, or other periodical works of a like nature, after the term of twenty-eight years from the first publication thereof respectively the right of publishing the same in a separate form shall revert to the author for the remainder of the term given by this act: provided always, that during the term of twenty-eight years the said proprietor, projector, publisher, or conductor shall not publish any such essay, article, or portion separately or singly without the consent previously obtained of the author thereof, or his assigns: provided also, that nothing herein contained shall alter or affect the right of any person who shall have been or who shall be so employed as aforesaid to publish any such his composition in a separate form, who by any contract, express or implied, may have reserved or may hereafter reserve to himself such right; but every author reserving, retaining, or having such right shall be entitled to the copyright in such composition when published in a separate form, according to this act, without prejudice to the right of such proprietor, projector, publisher, or conductor as aforesaid.

odicals, and works published in a series, reviews or magazines.

Proviso for authors who have reserved the right of publishing their articles in a separate form.

19. And be it enacted, that the proprietor of the copyright in any encyclopædia, review, magazine, periodical work, or other work published in a series of books or

Proprietors of encyclopædias, periodicals, and

works published in a series, may enter at once at Stationers' Hall, and thereon have the benefit of the registration of the whole.

The provisions of 3 & 4 Will. 4, c. 15, extended to musical compositions, and the term of copyright as provided by this act, applied to the liberty of representing dramatic pieces and musical compositions.

parts, shall be entitled to all the benefits of the registration at Stationers' Hall under this act, on entering in the said book of registry the title of such encyclopædia, review, periodical work, or other work published in a series of books or parts, the time of the first publication of the first volume, number, or part thereof, or of the first number or volume first published after the passing of this act in any such work which shall have been published heretofore, and the name and place of abode of the proprietor thereof, and of the publisher thereof, when such publisher shall not also be the proprietor thereof.

20. And whereas an act was passed in the third year of the reign of his late majesty, to amend the law relating to dramatic literary property, and it is expedient to extend the term of the sole liberty of representing dramatic pieces given by that act to the full time by this act provided for the continuance of copyright: and whereas it is expedient to extend to musical compositions the benefits of that act, and also of this act: be it therefore enacted, that the provisions of the said act of his late majesty, and of this act, shall apply to musical compositions, and that the sole liberty of representing or performing, or causing or permitting to be represented or performed, any dramatic piece or musical composition, shall endure and be the property of the author thereof, and his assigns, for the term in this act provided for the duration of copyright in books; and the provisions hereinbefore enacted in respect of the property of such copyright, and of registering the same, shall apply to the liberty of representing or performing any dramatic piece or musical composition, as if the same were herein expressly re-enacted and applied thereto, save and except that the first public representation or performance of any dramatic piece or musical composition shall be deemed equivalent, in the construction of this act, to the first publication of any book: provided always, that in case of any dramatic piece or musical composition in manuscript, it shall be sufficient for the person having the sole liberty of representing or performing, or causing to be represented or performed the same, to register only the title thereof, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor thereof, and the time and place of its first representation or performance.

Proprietors of 21. And be it enacted, that the person who shall at

any time have the sole liberty of representing such dramatic piece or musical composition shall have and enjoy the remedies given and provided in the said act of the third and fourth years of the reign of his late majesty King William the Fourth, passed to amend the laws relating to dramatic literary property, during the whole of his interest therein, as fully as if the same were re-enacted in this act.

right of dramatic representations shall have all the remedies given by 3 & 4 Will. 4, c. 15.

22. And be it enacted, that no assignment of the copyright of any book consisting of or containing a dramatic piece or musical composition shall be holden to convey to the assignee the right of representing or performing such dramatic piece or musical composition, unless an entry in the said registry book shall be made of such assignment, wherein shall be expressed the intention of the parties that such right should pass by such assignment.

Assignment of copyright of a dramatic piece not to convey the right of representation.

23. And be it enacted, that all copies of any book wherein there shall be copyright, and of which entry shall have been made in the said registry book, and which shall have been unlawfully printed or imported without the consent of the registered proprietor of such copyright, in writing under his hand first obtained, shall be deemed to be the property of the proprietor of such copyright, and who shall be registered as such, and such registered proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same, or damages for the detention thereof, in an action of detinue, from any party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of trover.

Books pirated shall become the property of the proprietor of the copyright, and may be recovered by action.

24. And be it enacted, that no proprietor of copyright in any book which shall be first published after the passing of this act shall maintain any action or suit, at law or in equity, or any summary proceeding, in respect of any infringement of such copyright, unless he shall, before commencing such action, suit or proceeding, have caused an entry to be made, in the book of registry of the Stationers Company, of such book, pursuant to this act: provided always, that the omission to make such entry shall not affect the copyright in any book, but only the right to sue or proceed in respect of the infringement thereof as aforesaid: provided also, that nothing herein contained shall prejudice the remedies which the proprietor of the sole liberty of representing any dramatic piece shall have by virtue of the act passed in the third

No proprietor of copyright commencing after this act shall sue or proceed for any infringement before making entry in the book of registry.

Proviso for dramatic pieces.

year of the reign of his late majesty King William the Fourth, to amend the laws relating to dramatic literary property, or of this act, although no entry shall be made in the book of registry aforesaid.

Copyright shall be personal property.

25. And be it enacted, that all copyright shall be deemed personal property, and shall be transmissible by bequest, or, in case of intestacy, shall be subject to the same law of distribution as other personal property, and in Scotland shall be deemed to be personal and moveable estate.

General issue.

26. And be it enacted, that if any action or suit shall be commenced or brought against any person or persons whomsoever for doing or causing to be done anything in pursuance of this act, the defendant or defendants in such action may plead the general issue, and give the special matter in evidence; and if upon such action a verdict shall be given for the defendant, or the plaintiff shall become nonsuited, or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant in any case by law hath; and that all actions, suits, bills, indictments or informations, for any offence that shall be committed against this act shall be brought, sued and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of none effect; provided that such limitation of time shall not extend or be construed to extend to any actions, suits or other proceedings, which under the authority of this act shall or may be brought, sued or commenced for or in respect of any copies or books to be delivered for the use of the British Museum, or of any one of the four libraries hereinbefore mentioned.

Limitation of actions;

not to extend to actions, &c. in respect of the delivery of books.

Saving the rights of the universities, and the colleges of Eton, Westminster and Winchester.

27. Provided always, and be it enacted, that nothing in this act contained shall affect or alter the rights of the two universities of Oxford and Cambridge, the colleges or houses of learning within the same, the four universities in Scotland, the college of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, and the several colleges of Eton, Westminster and Winchester, in any copyrights heretofore and now vested or hereafter to be vested in such universities and colleges respectively, anything to the contrary herein contained notwithstanding.

Saving all subsisting

28. Provided also, and be it enacted, that nothing in this act contained shall affect, alter or vary any right

29. And be it enacted, that this act shall extend to the United Kingdom of Great Britain and Ireland, and to every part of the British dominions. Extent of the act.

30. And be it enacted, that this act may be amended or repealed by any act to be passed in the present session of parliament.

**No. 1.**

WE, the undersigned *A. B.* of \_\_\_\_\_, the author of a certain book intitled *Y. Z.* [or the personal representative of the author, *as the case may be*], and *C. D.* of \_\_\_\_\_, do hereby certify, that we have consented and agreed to accept the benefits of the act passed in the fifth year of the reign of her majesty queen Victoria, cap. \_\_\_\_\_, for the extension of the term of copyright therein provided by the said act, and hereby declare that such extended term of copyright therein is the property of the said *A. B.* or *C. D.*

Dated this       day of       18 .  
Witness                  .        (Signed) A. B.  
C. D.

**No. 2.**

I, *A. B.* of \_\_\_\_\_ do hereby certify, that I am the proprietor of the copyright of a book intituled *Y. Z.*, and I hereby require you to make entry in the register book of the

Stationers' Company of my proprietorship of such copyright,  
according to the particulars underwritten.

Title of Book.	Name of Publisher and Place of Publication.	Name and Place of Abode of the Proprietor of the Copyright.	Date of First Publication.
<i>Y. Z.</i>		<i>A. B.</i>	

Dated this       day of       18 .  
Witness, *C. D.* (Signed) *A. B.*

No. 3.

ORIGINAL ENTRY of PROPRIETORSHIP of COPYRIGHT of a  
Book.

Time of making the Entry.	Title of Book.	Name of the Publisher and Place of Publication.	Name and Place of Abode of the Proprietor of the Copyright.	Date of First Publication.
	<i>Y. Z.</i>	<i>A. B.</i>	<i>C. D.</i>	

## No. 4.

FORM of CONCURRENCE of the PARTY assigning in any  
Book previously registered.

I, *A. B.* of , being the assignor of the copyright of the  
book hereunder described, do hereby require you to make  
entry of the assignment of the copyright therein.

Title of Book.	Assignor of the Copyright.	Assignee of Copyright.
<i>Y. Z.</i>	<i>A. B.</i>	<i>C. D.</i>

Dated this       day of       18   .  
(Signed) *A. B.*

## No. 5.

FORM of ENTRY of ASSIGNMENT of COPYRIGHT in any  
Book previously registered.

Date of Entry.	Title of Book,	Assignor of the Copyright.	Assignee of Copyright.
	<i>[Set out the title of the book, and refer to the page of the registry book in which the original entry of the copyright thereof is made.]</i>	<i>A. B.</i>	<i>C. D.</i>



## 5 &amp; 6 VICT. c. 100.

*An Act to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture.* [10th August, 1842.]

8. And be it enacted, that if any person commit any such act, he shall for every offence forfeit a sum not less than five pounds and not exceeding thirty pounds to the proprietor of the design in respect of whose right such offence has been committed; and such proprietor may recover such penalty as follows:

In England, either by an action of debt or on the case against the party offending, or by summary proceeding before two justices having jurisdiction where the party offending resides; and if such proprietor proceed by such summary proceeding, any justice of the peace acting for the county, riding, division, city, or borough where the party offending resides, and not being concerned either in the sale or manufacture of the article of manufacture, or in the design, to which such summary proceeding relates, may issue a summons requiring such party to appear on a day and at a time and place to be named in such summons, such time not being less than eight days from the date thereof; and every such summons shall be served on the party offending, either in person or at his usual place of abode; and either upon the appearance or upon the default to appear of the party offending, any two or more of such justices may proceed to the hearing of the complaint, and upon proof of the offence, either by the confession of the party offending, or upon the oath or affirmation of one or more credible witnesses, which such justices are hereby authorized to administer, may convict the offender in a penalty of not less than five pounds or more than thirty pounds, as aforesaid, for each offence, as to such justices doth seem fit; but the aggregate amount of penalties for offences in respect of any one design committed by any one person, up to the time at which any of the proceedings herein mentioned shall be instituted, shall not exceed the sum of one hundred pounds; and if the amount of such penalty or of such penalties, and the costs at-

tending the conviction, so assessed by such justices, be not forthwith paid, the amount of the penalty or of the penalties, and of the costs, together with the costs of the distress and sale, shall be levied by distress and sale of the goods and chattels of the offender, wherever the same happen to be in England; and the justices before whom the party has been convicted, or, on proof of the conviction, any two justices acting for any county, riding, division, city, or borough in England, where goods and chattels of the person offending happen to be, may grant a warrant for such distress and sale; and the overplus, if any, shall be returned to the owner of the goods and chattels, on demand; and every information and conviction which shall be respectively laid or made in such summary proceeding before two justices under this act may be drawn or made out in the following forms respectively, or to the effect thereof, *mutatis mutandis*, as the case may require:

*Form of Information.*

“Be it remembered, that on the \_\_\_\_\_, at \_\_\_\_\_, in the county of \_\_\_\_\_, A. B., of \_\_\_\_\_, in the county of \_\_\_\_\_ [or C. D., of \_\_\_\_\_, in the county of \_\_\_\_\_, at the instance and on the behalf of A. B., of \_\_\_\_\_, in the county of \_\_\_\_\_] cometh before us, \_\_\_\_\_ and \_\_\_\_\_, two of her Majesty’s justices of the peace in and for the county of \_\_\_\_\_, and giveth us to understand that the said A. B., before and at the time when the offence hereinafter mentioned was committed, was the proprietor of a new and original design for [*here describe the design*], and that within twelve calendar months last past, to wit, on the \_\_\_\_\_, at \_\_\_\_\_, in the county of \_\_\_\_\_, E. F., of \_\_\_\_\_, in the county of \_\_\_\_\_, did [*here describe the offence*], contrary to the form of the act passed in the \_\_\_\_\_ year of the reign of her present Majesty, intituled ‘An Act to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture.’”

*Form of Conviction.*

“Be it remembered, that on the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord \_\_\_\_\_, at \_\_\_\_\_, in the county of \_\_\_\_\_, E. F., of \_\_\_\_\_, in the county aforesaid, is con-

victed before us,                      and                      , two of her Majesty's justices of the peace for the said county, for that he the said *E. F.*, on the                      day of                      , in the year                      , at                      , in the county of                      , did [*here describe the offence*], contrary to the form of the statute in that case made and provided ; and we the said justices do adjudge that the said *E. F.* for his offence aforesaid hath forfeited the sum of                      to the said *A. B.*"

In Scotland, by action before the Court of Session in ordinary form, or by summary action before the sheriff of the county where the offence may be committed or the offender resides.

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#### 7 VICT. C. 12.

#### *An Act to amend the Law relating to International Copyright.* [10th May, 1844.]

1 & 2 Vict.  
c. 59.

WHEREAS by an act passed in the session of parliament held in the first and second years of the reign of her present majesty, intituled "An Act for securing to Authors in certain Cases the Benefit of International Copyright," (and which act is hereinafter, for the sake of perspicuity, designated as "The International Copyright Act,") her majesty was empowered by order in council to direct that the authors of books which should after a certain time, to be specified in such order in council, be published in any foreign country, to be specified in such order in council, and their executors, administrators and assigns, should have the sole liberty of printing and reprinting such books within the British dominions for such term as her majesty should by such order in council direct, not exceeding the term which authors, being British subjects, were then, (that is to say) at the time of passing the said act, entitled to in respect of books first published in the United Kingdom ; and the said act contains divers enactments securing to authors and their representatives the copyright in the books to which any such order in council should extend : and whereas an act was passed in the session of parliament held in the fifth and sixth years of the reign of her present majesty, intituled "An Act to amend the Law of Copyright," (and which act is herein-

5 & 6 Vict.  
c. 45.

after, for the sake of perspicuity, designated as "The Copyright Amendment Act,") repealing various acts therein mentioned relating to the copyright of printed books, and extending, defining and securing to authors and their representatives the copyright of books: and whereas an act was passed in the session of parliament held in the third and fourth years of the reign of his late majesty King William the Fourth, intituled "An Act <sup>s & 4 Will. 4,</sup> to amend the Laws relating to dramatic Literary Pro- <sup>c. 15.</sup> perty," (and which act is hereinafter, for the sake of perspicuity, designated as "The Dramatic Literary Property Act,") whereby the sole liberty of representing or causing to be represented any dramatic piece in any place of dramatic entertainment in any part of the British dominions, which should be composed and not printed or published by the author thereof or his assignee, was secured to such author or his assignee; and by the said act it was enacted, that the author of any such production which should thereafter be printed and published, or his assignee, should have the like sole liberty of representation until the end of twenty-eight years from the first publication thereof: and whereas by the said Copyright Amendment Act the provisions of the said Dramatic Literary Property Act and of the said Copyright Amendment Act were made applicable to musical compositions; and it was thereby also enacted, that the sole liberty of representing or performing, or causing or permitting to be represented or performed, in any part of the British dominions, any dramatic piece or musical composition, should endure and be the property of the author thereof and his assigns for the term in the said Copyright Amendment Act provided for the duration of the copyright in books, and that the provisions therein enacted in respect of the property of such copyright should apply to the liberty of representing or performing any dramatic piece or musical composition: and whereas under or by virtue of the four several acts next hereinafter mentioned; (that is to say,) an act passed in the eighth year of the reign of his late majesty King George the Second, intituled "An Act for the Encouragement of the Arts of Design- <sup>s Geo. 2,</sup> ing, Engraving and Etching Historical and other Prints, <sup>c. 13.</sup> by vesting the Properties thereof in the Inventors or Engravers during the Time therein mentioned;" an act passed in the seventh year of his late majesty King George the Third, intituled "An Act to amend and <sup>7 Geo. 3,</sup> <sup>c. 38.</sup>

17 Geo. 3,  
c. 57.

6 & 7 Will. 4,  
c. 59.

38 Geo. 3,  
c. 71.

54 Geo. 3,  
c. 56.

render more effectual an Act made in the eighth year of the reign of King George the Second, for Encouragement of the Arts of Designing, Engraving and Etching Historical and other Prints; and for vesting in and securing to Jane Hogarth, widow, the Property in certain Prints;" an act passed in the seventeenth year of the reign of his late majesty King George the Third, intituled "An Act for more effectually securing the Property of Prints to Inventors and Engravers, by enabling them to sue for and recover Penalties in certain Cases;" and an act passed in the session of parliament held in the sixth and seventh years of the reign of his late majesty King William the Fourth, intituled "An Act to extend the Protection of Copyright in Prints and Engravings to Ireland;" (and which said four several acts are hereinafter, for the sake of perspicuity, designated as the Engraving Copyright Acts;) every person who invents or designs, engraves, etches or works in mezzotinto or chiaro-oscuro, or from his own work, design, or invention causes or procures to be designed, engraved, etched, or worked in mezzotinto or chiaro-oscuro any historical print or prints, or any print or prints of any portrait, conversation, landscape, or architecture, map, chart, or plan, or any other print or prints whatsoever, and every person who engraves, etches, or works in mezzotinto or chiaro-oscuro, or causes to be engraved, etched, or worked, any print taken from any picture, drawing, model, or sculpture, either ancient or modern, notwithstanding such print shall not have been graven or drawn from the original design of such graver, etcher, or draftsman, is entitled to the copyright of such print for the term of twenty-eight years from the first publishing thereof; and by the said several engraving copyright acts it is provided that the name of the proprietor shall be truly engraved on each plate, and printed on every such print, and remedies are provided for the infringement of such copyright: and whereas under and by virtue of an act passed in the thirty-eighth year of the reign of his late majesty king George the Third, intituled "An Act for encouraging the Art of making new Models and Casts of Busts and other Things therein mentioned," and in an act passed in the fifty-fourth year of the reign of his late majesty king George the Third, intituled "An Act to amend and render more effectual an Act of his present majesty, for encouraging the Art of making new Models

and Casts of Busts and other Things therein mentioned, and for giving further Encouragement to such Arts," (and which said acts are, for the sake of perspicuity, hereinafter designated as the Sculpture Copyright Acts,) every person who makes or causes to be made any new and original sculpture, or model or copy or cast of the human figure, any bust or part of the human figure clothed in drapery or otherwise, any animal or part of any animal combined with the human figure or otherwise, any subject, being matter of invention in sculpture, any alto or basso relievo, representing any of the matters aforesaid, or any cast from nature of the human figure or part thereof, or of any animal or part thereof, or of any such subject representing any of the matters aforesaid, whether separate or combined, is entitled to the copyright in such new and original sculpture, model, copy, and cast, for fourteen years from first putting forth and publishing the same, and for an additional period of fourteen years in case the original maker is living at the end of the first period; and by the said acts it is provided that the name of the proprietor, with the date of the publication thereof, is to be put on all such sculptures, models, copies, and casts, and remedies are provided for the infringement of such copyright: and whereas the powers vested in her majesty by the said International Copyright Act are insufficient to enable her majesty to confer upon authors of books first published in foreign countries copyright of the like duration, and with the like remedies for the infringement thereof, which are conferred and provided by the said Copyright Amendment Act with respect to authors of books first published in the British dominions; and the said International Copyright Act does not empower her majesty to confer any exclusive right of representing or performing dramatic pieces or musical compositions first published in foreign countries upon the authors thereof, nor to extend the privilege of copyright to prints and sculpture first published abroad; and it is expedient to vest increased powers in her majesty in this respect, and for that purpose to repeal the said International Copyright Act, and to give such other powers to her majesty, and to make such further provisions, as are hereinafter contained: be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the

Repeal of International Copyright Act.

Her majesty, by order in council, may direct that authors, &c. of works first published in foreign countries shall have copyright therein within her majesty's dominions.

If the order applies to books, the copyright law as to books first published in this country shall apply to the books to which the order relates with certain exceptions.

If the order applies to prints, sculptures, &c., copyright law as to prints or sculptures

same, that the said recited act herein designated as the International Copyright Act shall be and the same is hereby repealed.

2. And be it enacted, that it shall be lawful for her majesty, by any order of her majesty in council, to direct that, as respects all or any particular class or classes of the following works, (namely) books, prints, articles of sculpture, and other works of art, to be defined in such order, which shall after a future time, to be specified in such order, be first published in any foreign country to be named in such order, the authors, inventors, designers, engravers, and makers thereof respectively, their respective executors, administrators, and assigns, shall have the privilege of copyright therein during such period or respective periods as shall be defined in such order, not exceeding, however, as to any of the above-mentioned works, the term of copyright which authors, inventors, designers, engravers, and makers of the like works respectively first published in the United Kingdom may be then entitled to under the hereinbefore recited acts respectively, or under any acts which may hereafter be passed in that behalf.

3. And be it enacted, that in case any such order shall apply to books, all and singular the enactments of the said Copyright Amendment Act, and of any other act for the time being in force with relation to the copyright in books first published in this country, shall, from and after the time so to be specified in that behalf in such order, and subject to such limitation as to the duration of the copyright as shall be therein contained, apply to and be in force in respect of the books to which such order shall extend, and which shall have been registered as herein-after is provided, in such and the same manner as if such books were first published in the United Kingdom, save and except such of the said enactments, or such parts thereof, as shall be excepted in such order, and save and except such of the said enactments, as relate to the delivery of copies of books at the British Museum, and to or for the use of the other libraries mentioned in the said Copyright Amendment Act.

4. And be it enacted, that in case any such order shall apply to prints, articles of sculpture, or to any such other works of art as aforesaid, all and singular the enactments of the said engraving copyright acts and the said sculpture copyright acts, or of any other act for the time

being in force with relation to the copyright in prints or articles of sculpture first published in this country, and of any act for the time being in force with relation to the copyright in any similar works of art first published in this country, shall, from and after the time so to be specified in that behalf in such order, and subject to such limitation as to the duration of the copyright as shall be therein contained respectively, apply to and be in force in respect of the prints, articles of sculpture, and other works of art to which such order shall extend, and which shall have been registered as hereinafter is provided, in such and the same manner as if such articles and other works of art were first published in the United Kingdom, save and except such of the said enactments or such parts thereof as shall be excepted in such order.

5. And be it enacted, that it shall be lawful for her majesty, by any order of her majesty in council, to direct that the authors of dramatic pieces and musical compositions which shall after a future time, to be specified in such order, be first publicly represented or performed in any foreign country to be named in such order, shall have the sole liberty of representing or performing in any part of the British dominions such dramatic pieces or musical compositions during such period as shall be defined in such order, not exceeding the period during which authors of dramatic pieces and musical compositions first publicly represented or performed in the United Kingdom may for the time be entitled by law to the sole liberty of representing and performing the same; and from and after the time so specified in any such last-mentioned order the enactments of the said Dramatic Literary Property Act and of the said Copyright Amendment Act and of any other act for the time being in force with relation to the liberty of publicly representing and performing dramatic pieces or musical compositions, shall, subject to such limitation as to the duration of the right conferred by any such order as shall be therein contained, apply to and be in force in respect of the dramatic pieces and musical compositions to which such order shall extend, and which shall have been registered as hereinafter is provided, in such and the same manner as if such dramatic pieces and musical compositions had been first publicly represented and performed in the British dominions, save and except such of the said enactments or such parts thereof as shall be excepted in such order.

first published in this country shall apply to the prints, sculptures, &c., to which such order relates.

Her majesty may, by order in council, direct that authors and composers of dramatic pieces and musical compositions first publicly represented and performed in foreign countries shall have similar rights in the British dominions.



Particulars to  
be observed  
as to registry  
and to de-  
livery of  
copies.

6. Provided always, and be it enacted, that no author of any book, dramatic piece or musical composition, or his executors, administrators, or assigns, and no inventor, designer or engraver, of any print, or maker of any article of sculpture, or other work of art, his executors, administrators, or assigns, shall be entitled to the benefit of this act, or of any order in council to be issued in pursuance thereof, unless within a time or times to be in that behalf prescribed in each such order in council, such book, dramatic piece, musical composition, print, article of sculpture, or other work of art, shall have been so registered, and such copy thereof shall have been so delivered as hereinafter is mentioned; (that is to say) as regards such book, and also such dramatic piece or musical composition, (in the event of the same having been printed,) the title to the copy thereof, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor of the copyright thereof, the time and place of the first publication, representation, or performance thereof, as the case may be, in the foreign country named in the order in council under which the benefits of this act shall be claimed, shall be entered in the register book of the Company of Stationers in London, and one printed copy of the whole of such book, and of such dramatic piece or musical composition, in the event of the same having been printed, and of every volume thereof, upon the best paper upon which the largest number or impression of the book, dramatic piece, or musical composition shall have been printed for sale, together with all maps and prints relating thereto, shall be delivered to the officer of the company of stationers at the hall of the said company; and as regards dramatic pieces and musical compositions in manuscript, the title to the same, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor of the right of representing or performing the same, and the time and place of the first representation or performance thereof in the country named in the order in council under which the benefit of the act shall be claimed, shall be entered in the said register book of the said company of stationers in London; and as regards prints, the title thereof, the name and place of abode of the inventor, designer, or engraver thereof, the name of the proprietor of the copyright therein, and the time and place of the first publication thereof in the foreign country named in the order in council under which the benefits of the act shall be

claimed, shall be entered in the said register book of the said company of stationers in London, and a copy of such print, upon the best paper upon which the largest number or impressions of the print shall have been printed for sale, shall be delivered to the officer of the company of stationers at the hall of the said company; and as regards any such article of sculpture, or any such other work of art as aforesaid, a descriptive title thereof, the name and place of abode of the maker thereof, the name of the proprietor of the copyright therein, and the time and place of its first publication in the foreign country named in the order in council under which the benefit of this act shall be claimed, shall be entered in the said register book of the said company of stationers in London; and the officer of the said company of stationers receiving such copies so to be delivered as aforesaid shall give a receipt in writing for the same, and such delivery shall to all intents and purposes be a sufficient delivery under the provisions of this act.

7. Provided always, and be it enacted, that if a book be published anonymously it shall be sufficient to insert in the entry thereof in such register book the name and place of abode of the first publisher thereof, instead of the name and place of abode of the author thereof, together with a declaration that such entry is made either on behalf of the author or on behalf of such first publisher, as the case may require.

In case of books published anonymously, the name of the publisher to be sufficient.

8. And be it enacted, that the several enactments in the said Copyright Amendment Act contained with relation to keeping the said register book, and the inspection thereof, the searches therein, and the delivery of certified and stamped copies thereof, the reception of such copies in evidence, the making of false entries in the said book, and the production in evidence of papers falsely purporting to be copies of entries in the said book, the applications to the courts and judges by persons aggrieved by entries in the said book, and the expunging and varying such entries, shall apply to the books, dramatic pieces and musical compositions, prints, articles of sculpture and other works of art, to which any order in council issued in pursuance of this act shall extend, and to the entries and assignments of copyright and proprietorship therein, in such and the same manner as if such enactments were here expressly enacted in relation thereto, save and except that the forms of entry prescribed by the said Copyright Amendment Act may be varied to meet the circum-

The provisions of the Copyright Amendment Act as regards entries in the register book of the company of stationers, &c. to apply to entries under this act.

stances of the case, and that the sum to be demanded by the officer of the said company of stationers for making any entry required by this act shall be one shilling only.

As to expunging or varying entry grounded in wrongful first publication.

9. And be it enacted, that every entry made in pursuance of this act of a first publication shall be *prima facie* proof of a rightful first publication; but if there be a wrongful first publication, and any party have availed himself thereof to obtain an entry of a spurious work, no order for expunging or varying such entry shall be made unless it be proved to the satisfaction of the court or of the judge taking cognizance of the application for expunging or varying such entry, first, with respect to a wrongful publication in a country to which the author or first publisher does not belong, and in regard to which there does not subsist with this country any treaty of international copyright, that the party making the application was the author or first publisher, as the case requires; second, with respect to a wrongful first publication either in the country where a rightful first publication has taken place, or in regard to which there subsists with this country a treaty of international copyright, that a court of competent jurisdiction in any such country where such wrongful first publication has taken place has given judgment in favour of the right of the party claiming to be the author or first publisher.

Copies of books wherein copyright is subsisting under this act printed in foreign countries other than those wherein the book was first published prohibited to be imported.

10. And be it enacted, that all copies of books wherein there shall be any subsisting copyright under or by virtue of this act, or of any order in council made in pursuance thereof, printed or reprinted in any foreign country, except that in which such books were first published, shall be and the same are hereby absolutely prohibited to be imported into any part of the British dominions, except by or with the consent of the registered proprietor of the copyright thereof, or his agent authorized in writing, and if imported contrary to this prohibition the same and the importers thereof shall be subject to the enactments in force relating to goods prohibited to be imported by any act relating to the customs; and as respects any such copies so prohibited to be imported, and also as respects any copies unlawfully printed in any place whatsoever of any books wherein there shall be any such subsisting copyright as aforesaid, any person who shall in any part of the British dominions import such prohibited or unlawfully printed copies, or who, knowing such copies to be so unlawfully imported or unlawfully printed, shall

sell, publish or expose to sale or hire, or shall cause to be sold, published or exposed to sale or hire, or have in his possession for sale or hire, any such copies so unlawfully imported or unlawfully printed, such offender shall be liable to a special action on the case at the suit of the proprietor of such copyright, to be brought and prosecuted in the same courts and in the same manner, and with the like restrictions upon the proceedings of the defendant, as are respectively prescribed in the said Copyright Amendment Act with relation to actions thereby authorized to be brought by proprietors of copyright against persons importing or selling books unlawfully printed in the British dominions.

11. And be it enacted, that the said officer of the said company of stationers shall receive at the hall of the said company every book, volume or print so to be delivered as aforesaid, and within one calendar month after receiving such book, volume or print shall deposit the same in the library of the British Museum.

Officer of stationers' company to deposit books, &c. in the British Museum.

12. Provided always, and be it enacted, that it shall not be requisite to deliver to the said officer of the said stationers' company any printed copy of the second or of any subsequent edition of any book or books so delivered as aforesaid, unless the same shall contain additions or alterations.

Second or subsequent editions.

13. And be it enacted, that the respective terms to be specified by such orders in council respectively for the continuance of the privilege to be granted in respect of works to be first published in foreign countries may be different for works first published in different foreign countries and for different classes of such works; and that the times to be prescribed for the entries to be made in the register book of the stationers' company, and for the deliveries of the books and other articles to the said officer of the stationers' company, as hereinbefore is mentioned, may be different for different foreign countries and for different classes of books or other articles.

Orders in council may specify different periods for different foreign countries and for different classes of works.

14. Provided always, and be it enacted, that no such order in council shall have any effect unless it shall be therein stated, as the ground for issuing the same, that due protection has been secured by the foreign power so named in such order in council for the benefit of parties interested in works first published in the dominions of her majesty similar to those comprised in such order.

No order in council to have any effect unless it states that reciprocal protection is secured.

15. And be it enacted, that every order in council to

Orders in

council to be published in Gazette, and to have same effect as this act.

Orders in council to be laid before parliament.

Orders in council may be revoked.

Translations.

Authors of works first published in foreign countries not entitled to copyright except under this act.

Interpretation clause.

be made under the authority of this act shall as soon as may be after the making thereof by her majesty in council be published in the London Gazette, and from the time of such publication shall have the same effect as if every part thereof were included in this act.

16. And be it enacted, that a copy of every order of her majesty in council made under this act shall be laid before both houses of parliament within six weeks after issuing the same, if parliament be then sitting, and if not, then within six weeks after the commencement of the then next session of parliament.

17. And be it enacted, that it shall be lawful for her majesty by an order in council from time to time to revoke or alter any order in council previously made under the authority of this act, but nevertheless without prejudice to any rights acquired previously to such revocation or alteration.

18. Provided always, and be it enacted, that nothing in this act contained shall be construed to prevent the printing, publication or sale of any translation of any book the author whereof and his assigns may be entitled to the benefit of this act.

19. And be it enacted, that neither the author of any book, nor the author or composer of any dramatic piece or musical composition, nor the inventor, designer or engraver of any print, nor the maker of any article of sculpture, or of such other work of art as aforesaid, which shall after the passing of this act be first published out of her majesty's dominions, shall have any copyright therein respectively, or any exclusive right to the public representation or performance thereof, otherwise than such (if any) as he may become entitled to under this act.

20. And be it enacted, that in the construction of this act the word "book" shall be construed to include "volume," "pamphlet," "sheet of letter-press," "sheet of music," "map," "chart" or "plan;" and the expression "articles of sculpture" shall mean all such sculptures, models, copies and casts as are described in the said Sculpture Copyright Acts, and in respect of which the privileges of copyright are thereby conferred; and the words "printing" and "re-printing" shall include engraving and any other method of multiplying copies; and the expression "her majesty" shall include the heirs and successors of her majesty; and the expressions "order of her majesty in council," "order in council," and

"order," shall respectively mean order of her majesty acting by and with the advice of her majesty's most honorable privy council; and the expression "officer of the company of stationers" shall mean the officer appointed by the said company of stationers for the purposes of the said Copyright Amendment Act: and in describing any persons or things any word importing the plural number shall mean also one person or thing, and any word importing the singular number shall include several persons or things, and any word importing the masculine shall include also the feminine gender; unless in any of such cases there shall be something in the subject or context repugnant to such construction.

21. And be it enacted, that this act may be amended or repealed by any act to be passed in this present session of parliament. Act may be repealed this session.



## 10 &amp; 11 VICT. C. 95.

*An Act to amend the Law relating to the Protection in the Colonies of Works entitled to Copyright in the United Kingdom.*

[22nd July, 1847.]

WHEREAS by an act passed in the session of parliament holden in the fifth and sixth years of her present majesty, intituled "An Act to amend the Law of Copyright," it is amongst other things enacted, that it shall not be lawful for any person not being the proprietor of the copyright, or some person authorized by him, to import into any part of the United Kingdom, or into any other part of the British dominions, for sale or hire, any printed book first composed or written or printed or published in any part of the United Kingdom wherein there shall be copyright, and reprinted in any country or place whatsoever out of the British dominions: and whereas by an act passed in the session of parliament holden in the eighth and ninth years of the reign of her present majesty, intituled "An Act to regulate the Trade of the British Possessions abroad," books wherein the copyright is subsisting, first composed or written or printed in the United

5 & 6 Vict. c. 45.

8 & 9 Vict. c. 93.

Her majesty  
may suspend  
in certain  
cases the  
prohibitions  
against the  
admission of  
pirated books  
into the colo-  
nies in certain  
cases.

Orders in  
council to be  
published in  
Gazette.  
Orders in

Kingdom, and printed or reprinted in any other country, are absolutely prohibited to be imported into the British possessions abroad: and whereas by the said last-recited act it is enacted, that all laws, bye-laws, usages or customs in practice, or endeavoured or pretended to be in force or practice in any of the British possessions in America, which are in anywise repugnant to the said act or to any act of parliament made or to be made in the United Kingdom, so far as such act shall relate to and mention the said possessions, are and shall be null and void to all intents and purposes whatsoever: now be it enacted, by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that in case the legislature or proper legislative authorities in any British possession shall be disposed to make due provision for securing or protecting the rights of British authors in such possession, and shall pass an act or make an ordinance for that purpose, and shall transmit the same in a proper manner to the secretary of state, in order that it may be submitted to her majesty, and in case her majesty shall be of opinion that such act or ordinance is sufficient for the purpose of securing to British authors reasonable protection within such possession, it shall be lawful for her majesty, if she think fit so to do, to express her royal approval of such act or ordinance, and thereupon to issue an order in council declaring that so long as the provisions of such act or ordinance continue in force within such colony the prohibitions contained in the aforesaid acts, and hereinbefore recited, and any prohibitions contained in the said acts or in any other acts against the importing, selling, letting out to hire, exposing for sale or hire, or possessing foreign reprints of books first composed, written, printed or published in the United Kingdom, and entitled to copyright therein, shall be suspended so far as regards such colony; and thereupon such act or ordinance shall come into operation, except so far as may be otherwise provided therein, or as may be otherwise directed by such order in council, anything in the said last-recited act or in any other act to the contrary notwithstanding.

2. And be it enacted, that every such order in council shall, within one week after the issuing thereof, be published in the London Gazette, and that a copy thereof, and of every such colonial act or ordinance so approved

as aforesaid by her majesty, shall be laid before both houses of parliament within six weeks after the issuing of such order, if parliament be then sitting, or if parliament be not then sitting, then within six weeks after the opening of the next session of parliament.

council and the colonial acts or ordinances to be laid before parliament.

3. And be it enacted, this act may be amended or repealed by any act to be passed in the present session of parliament.

Act may be amended, &c.

### 13 & 14 VICT. c. 104.

#### *An Act to extend and amend the Acts relating to the Copyright of Designs.* [14th August, 1850.]

6. That the registrar of designs, upon application by or on behalf of the proprietor of any sculpture, model, copy, or cast within the protection of the Sculpture Copyright Acts, and upon being furnished with such copy, drawing, print, or description, in writing or in print, as in the judgment of the said registrar shall be sufficient to identify the particular sculpture, model, copy, or cast in respect of which registration is desired, and the name of the person claiming to be proprietor, together with his place of abode or business or other place of address, or the name, style, or title of the firm under which he may be trading, shall register such sculpture, model, copy, or cast in such manner and form as shall from time to time be prescribed or approved by the Board of Trade for the whole or any part of the term during which copyright in such sculpture, model, copy, or cast may or shall exist under the Sculpture Copyright Acts; and whenever any such registration shall be made, the said registrar shall certify under his hand and seal of office, in such form as the said board shall direct or approve, the fact of such registration, and the date of the same, and the name of the registered proprietor, or the style or title of the firm under which such proprietor may be trading, together with his place of abode or business or other place of address.

7. That if any person shall, during the continuance of the copyright in any sculpture, model, copy, or cast which shall have been so registered as aforesaid, make, import, or cause to be made, imported, exposed for sale, or other-



wise disposed of, any pirated copy or pirated cast of any such sculpture, model, copy or cast, in such manner and under such circumstances as would entitle the proprietor to a special action on the case under the Sculpture Copyright Acts, the person so offending shall forfeit for every such offence a sum not less than five pounds and not exceeding thirty pounds to the proprietor of the sculpture, model, copy, or cast whereof the copyright shall have been infringed; and for the recovery of any such penalty the proprietor of the sculpture, model, copy, or cast which shall have been so pirated shall have and be entitled to the same remedies as are provided for the recovery of penalties incurred under the "Designs Act, 1842:" Provided always, that the proprietor of any sculpture, model, copy or cast which shall be registered under this act shall not be entitled to the benefit of this act, unless every copy or cast of such sculpture, model, copy, or cast which shall be published by him after such registration shall be marked with the word "registered," and with the date of registration.

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15 VICT. C. 12.

*An Act to enable her Majesty to carry into effect a Convention with France on the subject of Copyright; to extend and explain the International Copyright Acts; and to explain the Acts relating to Copyright in Engravings.*

[28th May, 1852.]

7 & 8 Vict. c. 12. WHEREAS an act was passed in the seventh year of the reign of her present majesty, intituled "An Act to amend the Law relating to International Copyright," hereinafter called "The International Copyright Act:" and whereas a convention has lately been concluded between her majesty and the French republic, for extending in each country the enjoyment of copyright in works of literature and the fine arts first published in the other, and for certain reductions of duties now levied on books, prints and musical works published in France: and whereas certain of the stipulations on the part of her

majesty contained in the said treaty require the authority of parliament: and whereas it is expedient that such authority should be given, and that her majesty should be enabled to make similar stipulations in any treaty on the subject of copyright which may hereafter be concluded with any foreign power: be it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

1. The eighteenth section of the said act of the seventh year of her present majesty, chapter twelve, shall be repealed, so far as the same is inconsistent with the provisions hereinafter contained.

*Translations.*

Partial repeal of 7 & 8 Vict. c. 12, s. 18.

2. Her majesty may, by order in council, direct that the authors of books which are, after a future time, to be specified in such order, published in any foreign country, to be named in such order, their executors, administrators and assigns, shall, subject to the provisions hereinafter contained or referred to, be empowered to prevent the publication in the British dominions of any translations of such books not authorized by them, for such time as may be specified in such order, not extending beyond the expiration of five years from the time at which the authorized translations of such books hereinafter mentioned are respectively first published, and in the case of books published in parts, not extending as to each part beyond the expiration of five years from the time at which the authorized translation of such part is first published.

Her majesty may by order in council direct that the authors of books published in foreign countries may for a limited time prevent unauthorised translations.

3. Subject to any provisions or qualifications contained in such order, and to the provisions herein contained or referred to, the laws and enactments for the time being in force for the purpose of preventing the infringement of copyright in books published in the British dominions shall be applied for the purpose of preventing the publication of translations of the books to which such order extends which are not sanctioned by the authors of such books, except only such parts of the said enactments as relate to the delivery of copies of books for the use of the British Museum, and for the use of the other libraries therein referred to.

Thereupon the law of copyright shall extend to prevent such translations.

4. Her majesty may, by order in council, direct that authors of dramatic pieces which are, after a future time, to be specified in such order, first publicly represented in any foreign country, to be named in such order, their

Her majesty may by order in council direct that the authors

of dramatic works represented in foreign countries may for a limited time prevent unauthorized translations.

Thereupon the law for protecting the representation of such pieces shall extend to prevent unauthorized translations.

Adaptations, &c. of dramatic pieces to the English stage not prevented.

All articles in newspapers, &c. relating to politics may be republished or translated; and also all similar articles on any subject, unless the author has notified his intention to reserve the right.

No author to be entitled to benefit of this act without comply-

executors, administrators and assigns, shall, subject to the provisions hereinafter mentioned or referred to, be empowered to prevent the representation in the British dominions of any translation of such dramatic pieces not authorized by them, for such time as may be specified in such order, not extending beyond the expiration of five years from the time at which the authorized translations of such dramatic pieces hereinafter mentioned are first published or publicly represented.

5. Subject to any provisions or qualifications contained in such last-mentioned order, and to the provisions hereinafter contained or referred to, the laws and enactments for the time being in force for ensuring to the author of any dramatic piece first publicly represented in the British dominions the sole liberty of representing the same shall be applied for the purpose of preventing the representation of any translations of the dramatic pieces to which such last-mentioned order extends, which are not sanctioned by the authors thereof.

6. Nothing herein contained shall be so construed as to prevent fair imitations or adaptations to the English stage of any dramatic piece or musical composition published in any foreign country.

7. Notwithstanding anything in the said International Copyright Act or in this act contained, any article of political discussion which has been published in any newspaper or periodical in a foreign country may, if the source from which the same is taken be acknowledged, be republished or translated in any newspaper or periodical in this country; and any article relating to any other subject which has been so published as aforesaid may, if the source from which the same is taken be acknowledged, be republished or translated in like manner, unless the author has signified his intention of preserving the copyright therein, and the right of translating the same, in some conspicuous part of the newspaper or periodical in which the same was first published, in which case the same shall, without the formalities required by the next following section, receive the same protection as is by virtue of the International Copyright Act or this act extended to books.

8. No author, or his executors, administrators or assigns, shall be entitled to the benefit of this act, or of any order in council issued in pursuance thereof, in respect of the translation of any book or dramatic piece, if

the following requisitions are not complied with; (that is to say,)  
ing with the  
 requisitions  
 herein spe-  
 cified.

1. The original work from which the translation is to be made must be registered and a copy thereof deposited in the United Kingdom in the manner required for original works by the said International Copyright Act, within three calendar months of its first publication in the foreign country :
2. The author must notify on the title-page of the original work, or if it is published in parts, on the title-page of the first part, or if there is no title-page, on some conspicuous part of the work, that it is his intention to reserve the right of translating it :
3. The translation sanctioned by the author, or a part thereof, must be published either in the country mentioned in the order in council by virtue of which it is to be protected or in the British dominions, not later than one year after the registration and deposit in the United Kingdom of the original work, and the whole of such translation must be published within three years of such registration and deposit :
4. Such translation must be registered and a copy thereof deposited in the United Kingdom within a time to be mentioned in that behalf in the order by which it is protected, and in the manner provided by the said International Copyright Act for the registration and deposit of original works :
5. In the case of books published in parts, each part of the original work must be registered and deposited in this country in the manner required by the said International Copyright within three months after the first publication thereof in the foreign country :
6. In the case of dramatic pieces the translation sanctioned by the author must be published within three calendar months of the registration of the original work :
7. The above requisitions shall apply to articles originally published in newspapers or periodicals if the same be afterwards published in a separate form, but shall not apply to such articles as originally published.

Pirated  
copies pro-  
hibited to be  
imported,  
except with  
consent of  
proprietor.

Provisions of  
5 & 6 Vict.  
c. 45, as to  
forfeiture,  
&c. of pirated  
works, &c.  
to extend to  
works pro-  
hibited to be  
imported  
under this  
act.

Foregoing  
provisions  
and 7 & 8  
Vict. c. 12,  
to be read as  
one act.

French trans-  
lations to be  
protected as  
hereinbefore  
mentioned,  
without fur-  
ther order in  
council.

9. All copies of any works of literature or art wherein there is any subsisting copyright by virtue of the International Copyright Act and this act, or of any order in council made in pursuance of such acts or either of them, and which are printed, reprinted or made in any foreign country except that in which such work shall be first published, and all unauthorized translations of any book or dramatic piece the publication or public representation in the British dominions of translations whereof not authorized as in this act mentioned shall for the time being be prevented under any order in council made in pursuance of this act, are hereby absolutely prohibited to be imported into any part of the British dominions, except by or with the consent of the registered proprietor of the copyright of such work or of such book or piece, or his agent authorized in writing; and the provision of the act of the sixth year of her majesty "to amend the Law of Copyright," for the forfeiture, seizure and destruction of any printed book first published in the United Kingdom wherein there shall be copyright, and reprinted in any country out of the British dominions, and imported into any part of the British dominions by any person not being the proprietor of the copyright, or a person authorized by such proprietor, shall extend and be applicable to all copies of any works of literature and art, and to all translations the importation whereof into any part of the British dominions is prohibited under this act.

10. The provisions hereinbefore contained shall be incorporated with the International Copyright Act, and shall be read and construed therewith as one act.

11. And whereas her majesty has already, by order in council under the said International Copyright Act, given effect to certain stipulations contained in the said convention with the French republic; and it is expedient that the remainder of the stipulations on the part of her majesty in the said convention contained should take effect from the passing of this act without any further order in council: during the continuance of the said convention, and so long as the order in council already made under the said International Copyright Act remains in force, the provisions hereinbefore contained shall apply to the said convention, and to translations of books and dramatic pieces which are, after the passing of this act, published or represented in France, in the same manner as if her majesty had issued her order in council in pur-

suance of this act for giving effect to such convention, and had therein directed that such translations should be protected as hereinbefore mentioned for a period of five years from the date of the first publication or public representation thereof respectively, and as if a period of three months from the publication of such translation were the time mentioned in such order as the time within which the same must be registered and a copy thereof deposited in the United Kingdom.

12. And whereas an act was passed in the tenth year of her present majesty, intituled "An Act to amend an Act of the Seventh and Eighth Years of Her present Majesty, for reducing, under certain Circumstances, the Duties payable upon Books and Engravings:" and whereas by the said convention with the French republic it was stipulated that the duties on books, prints, and drawings published in the territories of the French republic should be reduced to the amounts specified in the schedule to the said act of the tenth year of her present majesty, chapter fifty-eight: and whereas her majesty has, in pursuance of the said convention, and in exercise of the powers given by the said act, by order in council declared that such duties shall be reduced accordingly: and whereas by the said convention it was further stipulated that the said rates of duty should not be raised during the continuance of the said convention; and that if during the continuance of the said convention any reduction of those rates should be made in favour of books, prints, or drawings published in any other country, such reduction should be at the same time extended to similar articles published in France: and whereas doubts are entertained whether such last-mentioned stipulations can be carried into effect without the authority of parliament: be it enacted, that the said rates of duty so reduced as aforesaid shall not be raised during the continuance of the said convention; and that if during the continuance of the said convention any further reduction of such rates is made in favour of books, prints, or drawings published in any other foreign country, her majesty may, by order in council, declare that such reduction shall be extended to similar articles published in France, such order to be made and published in the same manner and to be subject to the same provisions as orders made in pursuance of the said act of the tenth year of her present majesty, chapter fifty-eight.

*Reduction of Duties.*

*Recital of 9 & 10 Vict. c. 58.*

*Rates of duty not to be raised during continuance of treaty, and if further reduction is made for other countries it may be extended to France.*

13. And whereas doubts have arisen as to the construction of the schedule of the act of the tenth year of her present majesty, chapter fifty-eight:

For removal  
of doubts as  
to construction  
of schedule to 9 & 10  
Vict. c. 58.

It is hereby declared, that for the purposes of the said act every work published in the country of export, of which part has been originally produced in the United Kingdom, shall be deemed to be and be subject to the duty payable on "works originally produced in the United Kingdom, and republished in the country of export," although it contains also original matter not produced in the United Kingdom, unless it shall be proved to the satisfaction of the commissioners of her majesty's customs by the importer, consignee, or other person entering the same that such original matter is at least equal to the part of the work produced in the United Kingdom, in which case the work shall be subject only to the duty on "works not originally produced in the United Kingdom."

*Lithographs,  
&c.*

Recital of  
8 Geo. 2, c. 13;  
7 Geo. 3, c. 38;  
17 Geo. 3,  
c. 57; 6 & 7  
Will. 4, c. 59.

14. And whereas by the four several acts of parliament following; (that is to say,) an act of the eighth year of the reign of king George the second, chapter thirteen, an act of the seventh year of the reign of king George the third, chapter thirty-eight; an act of the seventeenth year of the reign of king George the third, chapter fifty-seven; and an act of the seventh year of king William the fourth, chapter fifty-nine, provision is made for securing to every person who invents, or designs, engraves, etches, or works in mezzotinto or chiaro-oscuro, or, from his own work, design, or invention, causes or procures to be designed, engraved, etched, or worked in mezzotinto or chiaro-oscuro, any historical print or prints, or any print or prints of any portrait, conversation, landscape, or architecture, map, chart, or plan, or any other print or prints whatsoever, and to every person who engraves, etches, or works in mezzotinto or chiaro-oscuro, or causes to be engraved, etched, or worked any print taken from any picture, drawing, model, or sculpture, notwithstanding such print has not been graven or drawn from his own original design, certain copyrights therein defined: And whereas doubts are entertained whether the provisions of the said acts extend to lithographs and certain other impressions, and it is expedient to remove such doubts:

For removal  
of doubts as

It is hereby declared, that the provisions of the said acts are intended to include prints taken by lithography,

or any other mechanical process by which prints or impressions of drawings or designs are capable of being multiplied indefinitely, and the said acts shall be construed accordingly.

to the provisions of the said acts including lithographs, prints, &c.

25 & 26 VICT. C. 68.

*An Act for amending the Law relating to Copyright in Works of the Fine Arts, and for repressing the Commission of Fraud in the Production and Sale of such Works.*

[29th July, 1862.]

WHEREAS by law, as now established, the authors of paintings, drawings and photographs, have no copyright in such their works, and it is expedient that the law should in that respect be amended : be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

1. The author, being a British subject or resident within the dominions of the crown, of every original painting, drawing and photograph, which shall be or shall have been made either in the British dominions or elsewhere, and which shall not have been sold or disposed of before the commencement of this act, and his assigns, shall have the sole and exclusive right of copying, engraving, reproducing and multiplying such painting or drawing, and the design thereof, or such photograph, and the negative thereof, by any means and of any size, for the term of the natural life of such author, and seven years after his death ; provided that when any painting or drawing, or the negative of any photograph, shall for the first time after the passing of this act be sold or disposed of, or shall be made or executed for or on behalf of any other person for a good or a valuable consideration, the person so selling or disposing of or making or executing the same shall not retain the copyright thereof, unless it be expressly reserved to him by agreement in writing, signed, at or before the time of such sale or disposition, by the vendee or assignee or such painting

Copyright in works here-after made or sold to vest in the author for his life and for seven years after his death.



or drawing, or of such negative of a photograph, or by the person for or on whose behalf the same shall be so made or executed, but the copyright shall belong to the vendee or assignee of such painting or drawing, or of such negative of a photograph, or to the person for or on whose behalf the same shall have been made or executed; nor shall the vendee or assignee thereof be entitled to any such copyright, unless, at or before the time of such sale or disposition, an agreement in writing, signed by the person so selling or disposing of the same, or by his agent duly authorized, shall have been made to that effect.

Copyright not to prevent the representation of the same subjects in other works.

Assignments, licences, &c. to be in writing.

Register of proprietors of copyright in paintings, drawings, and photographs to be kept at Stationers' Hall as in 5 & 6 Vict. c. 45.

2. Nothing herein contained shall prejudice the right of any person to copy or use any work in which there shall be no copyright, or to represent any scene or object, notwithstanding that there may be copyright in some representation of such scene or object.

3. All copyright under this act shall be deemed personal or moveable estate, and shall be assignable at law, and every assignment thereof, and every licence to use or copy by any means or process the design or work which shall be the subject of such copyright, shall be made by some note or memorandum in writing, to be signed by the proprietor of the copyright, or by his agent appointed for that purpose in writing.

4. There shall be kept at the hall of the stationers' company, by the officer appointed by the said company for the purposes of the act passed in the sixth year of her present majesty, intituled "An Act to amend the Law of Copyright," a book or books, entitled "The Register of Proprietors of Copyright in Paintings, Drawings and Photographs," wherein shall be entered a memorandum of every copyright to which any person shall be entitled under this act, and also of every subsequent assignment of any such copyright: and such memorandum shall contain a statement of the date of such agreement or assignment, and of the names of the parties thereto, and of the name and place of abode of the person in whom such copyright shall be vested by virtue thereof, and of the name and place of abode of the author of the work in in which there shall be such copyright, together with a short description of the nature and subject of such work, and in addition thereto, if the person registering shall so desire, a sketch, outline, or photograph of the said work, and no proprietor of any such copyright shall be entitled

to the benefit of this act until such registration, and no action shall be sustainable nor any penalty be recoverable in respect of anything done before registration.

5. The several enactments in the said act of the sixth year of her present majesty contained, with relation to keeping the register book thereby required, and the inspection thereof, the searches therein, and the delivery of certified and stamped copies thereof, the reception of such copies in evidence, the making of false entries in the said book, and the production in evidence of papers falsely purporting to be copies of entries in the said book, the application to the courts and judges by persons aggrieved by entries in the said book, and the expunging and varying such entries, shall apply to the book or books to be kept by virtue of this act, and to the entries and assignments of copyright and proprietorship therein under this act, in such and the same manner as if such enactments were here expressly enacted in relation thereto, save and except that the forms of entry prescribed by the said act of the sixth year of her present majesty may be varied to meet the circumstances of the case, and that the sum to be demanded by the officer of the said company of stationers for making any entry required by this act shall be one shilling only.

Certain enactments of 5 & 6 Vict. c. 45, to apply to the books to be kept under this act.

6. If the author of any painting, drawing, or photograph in which there shall be subsisting copyright, after having sold or disposed of such copyright, or if any other person, not being the proprietor for the time being of copyright in any painting, drawing, or photograph, shall, without the consent of such proprietor, repeat, copy, colourably imitate, or otherwise multiply for sale, hire, exhibition, or distribution, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied for sale, hire, exhibition, or distribution, any such work or the design thereof, or, knowing that any such repetition, copy, or other imitation has been unlawfully made, shall import into any part of the United Kingdom, or sell, publish, let to hire, exhibit, or distribute, or offer for sale, hire, exhibition or distribution, or cause or procure to be imported, sold, published, let to hire, distributed, or offered for sale, hire, exhibition, or distribution, any repetition, copy, or imitation of the said work, or of the design thereof, made without such consent as aforesaid, such person for every such offence shall forfeit to the proprietor of the copyright for the time being a sum not exceeding ten pounds; and all such repetitions,

Penalties on infringement of copyright.

copies, and imitations made without such consent as aforesaid, and all negatives of photographs made for the purpose of obtaining such copies, shall be forfeited to the proprietor of the copyright.

Penalties on  
fraudulent  
productions  
and sales.

7. No person shall do or cause to be done any or either of the following acts; that is to say,

First, no person shall fraudulently sign or otherwise affix, or fraudulently cause to be signed or otherwise affixed, to or upon any painting, drawing, or photograph, or the negative thereof, any name, initials, or monogram :

Secondly, no person shall fraudulently sell, publish, exhibit, or dispose of, or offer for sale, exhibition, or distribution, any painting, drawing, or photograph, or negative of a photograph, having thereon the name, initials, or monogram of a person who did not execute or make such work :

Thirdly, no person shall fraudulently utter, dispose of, or put off, or cause to be uttered or disposed of, any copy or colourable imitation of any painting, drawing, or photograph, or negative of a photograph, whether there shall be subsisting copyright therein or not, as having been made or executed by the author or maker of the original work from which such copy or imitation shall have been taken :

Fourthly, where the author or maker of any painting, drawing, or photograph, or negative of a photograph, made either before or after the passing of this act, shall have sold or otherwise parted with the possession of such work, if any alteration shall afterwards be made therein by any other person, by addition or otherwise, no person shall be at liberty, during the life of the author or maker of such work, without his consent, to make or knowingly to sell or publish, or offer for sale, such work or any copies of such work so altered as aforesaid, or of any part thereof, as or for the unaltered work of such author or maker :

Penalties.

Every offender under this section shall, upon conviction, forfeit to the person aggrieved a sum not exceeding ten pounds, or not exceeding double the full price, if any, at which all such copies, engravings, imitations, or altered works shall have been sold or offered for sale; and all such copies, engravings, imitations or altered works shall be forfeited to the person, or the assigns or legal representatives of the person, whose name, initials, or

monogram shall be so fraudulently signed or affixed thereto, or to whom such spurious or altered work shall be so fraudulently or falsely ascribed as aforesaid: provided always, that the penalties imposed by this section shall not be incurred unless the person whose name, initials, or monogram shall be so fraudulently signed or affixed, or to whom such spurious or altered work shall be so fraudulently or falsely ascribed as aforesaid, shall have been living at or within twenty years next before the time when the offence may have been committed.

8. All pecuniary penalties which shall be incurred, and all such unlawful copies, imitations, and all other effects and things as shall have been forfeited by offenders, pursuant to this act, and pursuant to any act for the protection of copyright engravings, may be recovered by the person hereinbefore and in any such act as aforesaid empowered to recover the same respectively, and hereinafter called the complainant or the complainer, as follows:—

Recovery of  
pecuniary  
penalties.

In England and Ireland, either by action against the party offending, or by summary proceeding before any two justices having jurisdiction where the party offending resides:

In England  
and Ireland.

In Scotland by action before the court of session in ordinary form, or by summary action before the sheriff of the county where the offence may be committed or the offender resides, who, upon proof of the offence or offences, either by confession of the party offending, or by the oath or affirmation of one or more credible witnesses, shall convict the offender, and find him liable to the penalty or penalties aforesaid, as also in expenses, and it shall be lawful for the sheriff, in pronouncing such judgment for the penalty or penalties and costs, to insert in such judgment a warrant, in the event of such penalty or penalties and costs not being paid, to levy and recover the amount of the same by poinding: provided always, that it shall be lawful to the sheriff, in the event of his dismissing the action and assoilzieing the defender, to find the complainer liable in expenses, and any judgment so to be pronounced by the sheriff in such summary application shall be final and conclusive, and not subject to review by advocacy, suspension, reduction, or otherwise.

In Scotland.

Superior courts of record in which any action is pending may make an order for an injunction, inspection or account.

9. In any action in any of her majesty's superior courts of record at Westminster and in Dublin, for the infringement of any such copyright as aforesaid, it shall be lawful for the court in which such action is pending, if the court be then sitting, or if the court be not sitting then for a judge of such court, on the application of the plaintiff or defendant respectively, to make such order for an injunction, inspection, or account, and to give such direction respecting such action, injunction, inspection and account, and the proceedings therein respectively, as to such court or judge may seem fit.

Importation of pirated works prohibited.

10. All repetitions, copies or imitations of paintings, drawings, or photographs, wherein or in the design whereof there shall be subsisting copyright under this act, and all repetitions, copies and imitations of the design of any such painting or drawing, or of the negative of any such photograph, which, contrary to the provisions of this act, shall have been made in any foreign state, or in any part of the British dominions, are hereby absolutely prohibited to be imported into any part of the United Kingdom, except by or with the consent of the proprietor of the copyright thereof, or his agent authorized in writing; and if the proprietor of any such copyright, or his agent, shall declare that any goods imported are repetitions, copies or imitations of any such painting, drawing or photograph, or of the negative of any such photograph, and so prohibited as aforesaid, then such goods may be detained by the officers of her majesty's customs.

Application in such cases of customs acts.

Saving of right to bring action for damages.

11. If the author of any painting, drawing or photograph, in which there shall be subsisting copyright, after having sold or otherwise disposed of such copyright, or if any other person, not being the proprietor for the time being of such copyright, shall, without the consent of such proprietor, repeat, copy, colourably imitate, or otherwise multiply, or cause or procure to be repeated, copied, colourably imitated or otherwise multiplied, for sale, hire, exhibition or distribution, any such work or the design thereof, or the negative of any such photograph, or shall import or cause to be imported into any part of the United Kingdom, or sell, publish, let to hire, exhibit, or distribute, or offer for sale, hire, exhibition or distribution, or cause or procure to be sold, published, let to hire, exhibited, or distributed, or offered for sale, hire,

exhibition or distribution, any repetition, copy or imitation of such work, or the design thereof, or the negative of any such photograph, made without such consent as aforesaid, then every such proprietor, in addition to the remedies hereby given for the recovery of any such penalties, and forfeiture of any such things as aforesaid, may recover damages by and in a special action on the case, to be brought against the person so offending, and may in such action recover and enforce the delivery to him of all unlawful repetitions, copies and imitations, and negatives of photographs, or may recover damages for the retention or conversion thereof: provided that nothing herein contained, nor any proceeding, conviction or judgment, for any act hereby forbidden, shall affect any remedy which any person aggrieved by such act may be entitled to either at law or in equity.

12. This act shall be considered as including the provisions of the act passed in the session of Parliament held in the seventh and eighth years of her present Majesty, intituled "An Act to amend the Law relating to International Copyright," in the same manner as if such provisions were part of this act.

Provisions of  
7 & 8 Vict.  
c. 12, to be  
considered as  
included in  
this act.

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## PART II.

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*Convention between her Majesty and the French Republic, for the Establishment of International Copyright; signed at Paris, November 3, 1851, —Ratifications exchanged at Paris, January 8, 1852. Presented to both Houses of Parliament by command of her Majesty in 1852.*

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the French Republic, being equally desirous of extending in each country the enjoyment of copyright to works of literature and of the fine arts which may be first published in the other; and her Britannic Majesty having consented to extend to books, prints, and musical works published in France, that reduction of the duties now levied thereon on importation into the United Kingdom, which she is by law empowered to grant, under certain

circumstances, in favour of such works published in foreign countries; her Britannic Majesty and the President of the French Republic have deemed it expedient to conclude a special Convention for that purpose, and have therefore named as their plenipotentiaries, that is to say :—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Constantine Henry, Marquess of Normanby, a Peer of the United Kingdom, Knight of the Most Noble Order of the Garter, and Knight Grand Cross of the Most Honourable Order of the Bath, &c., Ambassador Extraordinary and Plenipotentiary to the French Republic;

And the President of the French Republic, M. Lewis, Felix Stephen Turgot, Officer of the National Order of the Legion of Honour, Knight of the Royal Order of San Fernando of Spain, Second Class, &c., &c., and Minister for the department of Foreign Affairs;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles :—

Article 1. From and after the date on which, according to the provisions of Article 14, the present Convention shall come into operation, the authors of works of literature or of art, to whom the laws of either of the two countries do now or may hereafter give the right of property, or copyright, shall be entitled to exercise that right in the territories of the other of such countries for the same term, and to the same extent, as the authors of works of the same nature, if published in such other country, would therein be entitled to exercise such right; so that the republication or piracy in either country, of any work of literature or of art published in the other, shall be dealt with in the same manner as the republication or piracy of a work of the same nature first published in such other country; and so that such authors in the one country shall have the same remedies before the courts of justice in the other country, and shall enjoy in that other country the same protection against piracy and unauthorized republication as the law now does or may hereafter grant to authors in that country.

The terms "works of literature or of art," employed at the beginning of this article, shall be understood to comprise publications of books, of dramatic works, of musical compositions, of drawing, of painting, of sculp-

ture, of engraving, of lithography, and of any other works whatsoever of literature and of the fine arts.

The lawful representatives or assigns of authors, translators, composers, painters, sculptors, or engravers, shall, in all respects, enjoy the same rights which by the present Convention are granted to the authors, translators, composers, painters, sculptors or engravers themselves.

Article 2. The protection granted to original works is extended to translations; it being, however, clearly understood, that the intention of the present article is simply to protect a translator in respect of his own translation, and that it is not intended to confer upon the first translator of any work the exclusive right of translating that work, except in the case and to the extent provided for in the following article.

Article 3. The author of any work published in either of the two countries, who may choose to reserve the right of translating it, shall, until the expiration of five years from the date of the first publication of the translation thereof authorized by him, be, in the following cases, entitled to protection from the publication in the other country of any translation of such work not so authorized by him:

Section 1. If the original work shall have been registered and deposited in the one country within three months after its first publication in the other.

Section 2. If the author has notified on the title-page of his work his intention to reserve the right of translating it.

Section 3. Provided always, that at least a part of the authorized translation shall have appeared within a year after the registration and deposit of the original, and that the whole shall have been published within three years after the date of such deposit.

Section 4. And provided that the publication of the translation shall take place within one of the two countries, and that it shall be registered and deposited according to the provisions of article 8.

With regard to works which are published in parts, it will be sufficient if the declaration of the author that he reserves the right of translation, shall appear in the first part. But with reference to the period of five years limited by this article for the exercise of the exclusive right of translation, each part shall be treated as a separate work, and each part shall be registered and de-



posited in the one country within three months after its first publication in the other.

Article 4. The stipulations of the preceding articles shall also be applicable to the representation of dramatic works, and to the performance of musical compositions, in so far as the laws of each of the two countries are or shall be applicable in this respect to dramatic and musical works first publicly represented or performed therein.

In order, however, to entitle the author to legal protection in regard to the translation of a dramatic work, such translation must appear within three months after the registration and deposit of the original.

It is understood that the protection stipulated by the present article is not intended to prohibit fair imitations, or adaptations of dramatic works to the stage in England and France respectively, but is only meant to prevent piratical translations.

The question whether a work is an imitation or a piracy, shall in all cases be decided by the courts of justice of the respective countries, according to the laws in force in each.

Article 5. Notwithstanding the stipulations of articles 1 and 2 of the present Convention, articles extracted from newspapers or periodicals published in either of the two countries, may be republished or translated in the newspapers or periodicals of the other country, provided the source from whence such articles are taken be acknowledged.

Nevertheless, this permission shall not be construed to authorize the republication in one of the two countries of articles from newspapers or periodicals published in the other country, the authors of which shall have notified in a conspicuous manner in the journal or periodical in which such articles have appeared, that they forbid the republication thereof.

Article 6. The importation into, and the sale in either of the two countries of piratical copies of works which are protected from piracy under articles 1, 2, 3 and 5 of the present Convention, are prohibited, whether such piratical copies originate in the country where the work was published, or in any other country.

Article 7. In the event of an infraction of the provisions of the foregoing articles, the pirated works or articles shall be seized and destroyed; and the persons who may have committed such infraction shall be liable

in each country to the penalties and actions which are or may be prescribed by the laws of that country for such offences, committed in respect of a work or production of home origin.

Article 8. Neither authors, nor translators, nor their lawful representatives or assigns, shall be entitled in either country to the protection stipulated by the preceding articles, nor shall copyright be claimable in either country, unless the work shall have been registered in the manner following, that is to say :—

1. If the work be one that has first appeared in France, it must be registered at the hall of the company of stationers in London.

2. If the work be one that has first appeared in the dominions of her Britannic Majesty, it must be registered at the *Bureau de la Librairie* of the minister of the interior at Paris.

No person shall be entitled to such protection as aforesaid, unless he shall have duly complied with the laws and regulations of the respective countries, in regard to the work in respect of which such protection may be claimed. With regard to books, maps, prints, or musical publications, no person shall be entitled to such protection, unless he shall have delivered gratuitously, at one or other of the places mentioned above, as the case may be, one copy of the best edition, or in the best state, in order to its being deposited at the place appointed for that purpose, in each of the two countries,—that is to say, in Great Britain, at the British Museum at London, and in France, at the National Library at Paris.

In every case, the formality of deposit and registration must be fulfilled within three months after the first publication of the work in the other country. With regard to works published in parts, the period of three months shall not begin to run until the date of the publication of the last part, unless the author shall have notified his intention to preserve the right of translating it, as provided in article 3; in which case each part shall be treated as a separate work.

A certified copy of the entry in the register book of the company of stationers in London shall confer within the British dominions, the exclusive right of republication, until a better right shall have been established by any other party before a court of justice.

The certificate given under the laws of France, proving

the registration of any work in that country, shall be valid for the same purpose throughout the territories of the French Republic.

A certificate or certified copy of the registration of any work so registered in either country shall, if required, be delivered at the time of registration; and such certificate shall state the exact date at which the registration was made.

The charge for the registration of a single work, under the stipulations of this article, shall not exceed one shilling in England, nor one franc and twenty-five centimes in France; and the further charge for a certificate of such registration shall not exceed the sum of five shillings in England, nor six francs and twenty-five centimes in France.

The provisions of this article shall not extend to articles which may appear in newspapers or periodicals, which shall be protected from republication or translation simply by a notice from the author, as prescribed by article 5. But if any article or work which has originally appeared in a newspaper or periodical shall afterwards be published in a separate form, it shall then become subject to the stipulations of the present article.

Article 9. With regard to any article other than books, prints, maps, and musical publications, in respect to which protection may be claimed under article 1 of the present Convention, it is agreed, that any other mode of registration than that prescribed in the preceding article, which is or may be applicable by law in one of the two countries to any work or article first published in such country, for the purpose of affording protection to copyright in such work or article, shall be extended on equal terms to any similar work or article first published in the other country.

Article 10. During the continuance of this Convention, the duties now payable upon the lawful importation into the United Kingdom of Great Britain and Ireland of books, prints, drawings, or musical works, published throughout the territories of the French Republic, shall be reduced to and fixed at the rates hereinafter specified, that is to say,—

1. Duties on books and musical works, viz.—
- (a) Works originally produced in the United Kingdom, and republished in France,

the cwt.	.	.	.	.	.	2	10	0
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(b) Works not originally produced in the £ s. d.  
 United Kingdom, the cwt. . . . 0 15 0

2. Prints or drawings:—

(a) Coloured or plain, single, each . . . 0 0 0½  
 (b) Bound or sewed, the dozen . . . 0 0 1½

It is agreed that the rates of duty above specified shall not be raised during the continuance of the present Convention; and that if hereafter, during the continuance of this Convention, any reduction of those rates should be made in favour of books, prints, drawings, or musical works published in any other country, such reduction shall be at the same time extended to similar articles published in France.

It is moreover understood that all works published in France, of which any part may have been originally produced in the United Kingdom, shall be considered as "works originally produced in the United Kingdom, and republished in France," and as such shall be subject to the duty of fifty shillings per cwt., although the same may contain also original matter not produced in the United Kingdom, unless such original matter shall be at least equal in bulk to the part of the work originally produced in the United Kingdom, in which case the work shall be subject only to the duty of fifteen shillings per cwt.

Article 11. In order to facilitate the execution of the present Convention, the two high contracting parties engage to communicate to each other the laws and regulations which may hereafter be established in their respective territories, with respect to copyright in works or productions protected by the stipulations of the present Convention.

Article 12. The stipulations of the present Convention shall in no way affect the right which each of the two high contracting parties expressly reserves to itself, of controlling or of prohibiting, by measures of legislation or of internal police, the sale, circulation, representation, or exhibition of any work or production, in respect to which either country may deem it expedient to exercise that right.

Article 13. Nothing in this Convention shall be construed to affect the right of either of the two high contracting parties to prohibit the importation into its own dominions, of such books as, by its internal law, or under

engagements with other states, are or may be declared to be piracies, or infringements of copyright.

Article 14. Her Britannic Majesty engages to recommend to parliament to pass an act to enable her to carry into execution such of the arrangements contained in the present Convention as require the sanction of an act of the legislature. When such an act shall have been passed, the Convention shall come into operation from and after a day to be then fixed upon by the two high contracting parties. Due notice shall be given beforehand in each country, by the government of that country, of the day which may be so fixed upon; and the stipulations of the Convention shall apply only to works or articles, published after that day.

The Convention shall continue in force for ten years from the day on which it may come into operation; and if neither party shall, twelve months before the expiration of the said period of ten years, give notice of its intention to terminate its operation, the Convention shall continue in force for a year longer, and so on from year to year, until the expiration of a year's notice from either party for its termination.

The high contracting parties, however, reserve to themselves the power of making by common consent, in this Convention, any modifications which may not be inconsistent with its spirit and principles, and which experience of its working may show to be desirable.

Article 15. The present Convention shall be ratified, and the ratifications shall be exchanged at Paris as soon as may be within three months from the date of signature.

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## PART III.

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### FORMS.

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*Agreement that the Author shall have the Copyright of a Painting, Drawing or Photograph, where the same is executed on Commission.*

Articles of agreement made and entered into the day of            between A. B. (author) of the one part, and C. D. of the other part, whereby, in consideration of the said A. B. agreeing to execute a painting\* called            , the said C. D. agrees with the said A. B. that the copyright in the said painting\* shall belong to the said A. B.

---

*Agreement that the Purchaser shall have the Copyright of a Painting, Drawing, or Photograph, where the same is sold.*

Articles of agreement made the            day of            , between A. B. (seller) of the one part, and C. D. (purchaser) of the other part, whereby, in consideration of the sum of £            , the said A. B. agrees with the said C. D. that the copyright in the painting\* called            shall belong to the said C. D.

---

*Agreement that the Seller shall have the Copyright of a Painting, Drawing, or Photograph, where the same is sold.*

Articles of agreement made the            day of            , between A. B. (seller) of the one part, and C. D. (purchaser) of the other part, whereby, in consideration of the said A. B. selling the painting\* called            to the said C. D., the said C. D. agrees that the copyright in the said painting\* shall belong to the said A. B.

\* Drawing or photograph, and the negative thereof, as the case may be.



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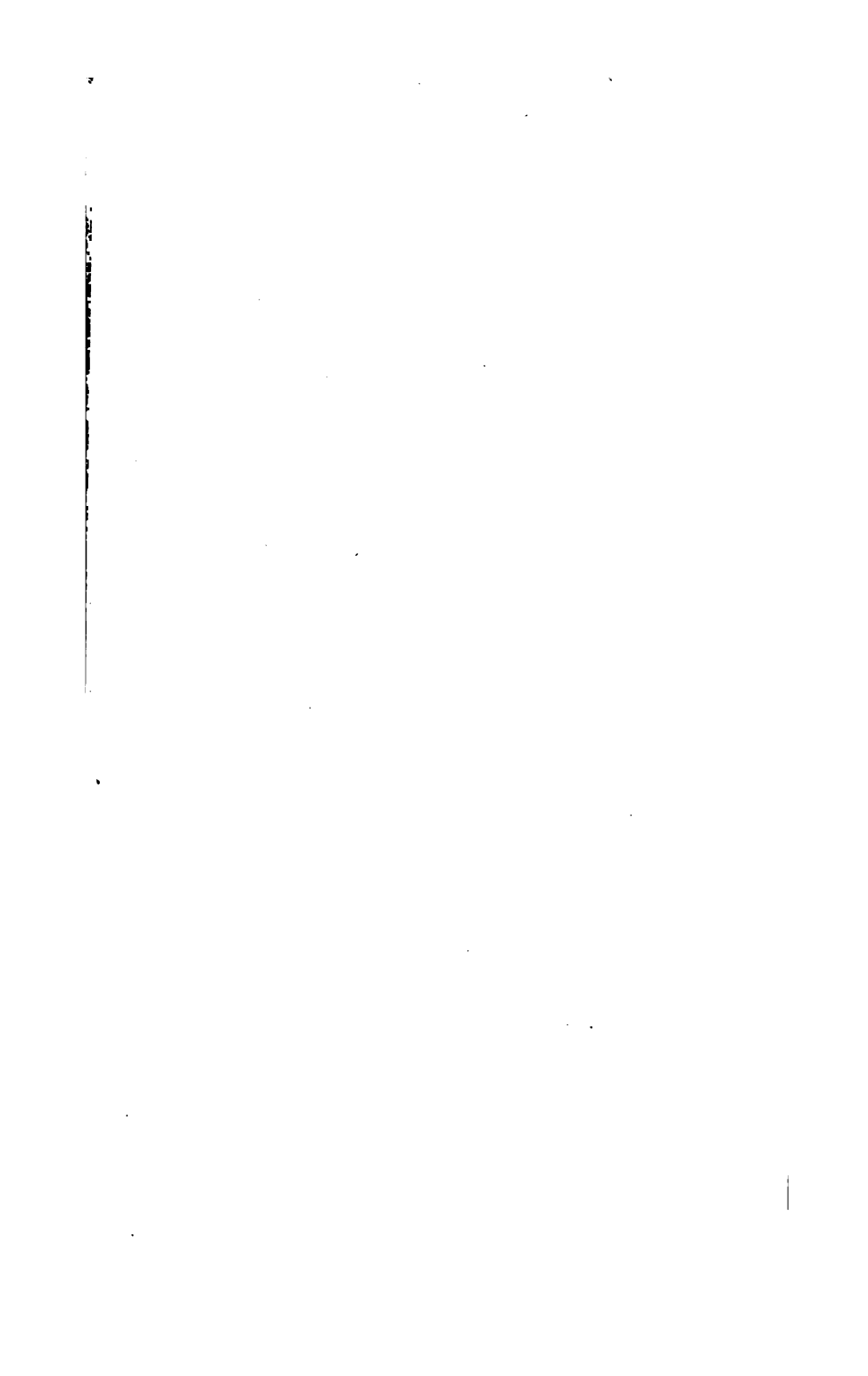
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